Corporation for Public Broadcasting	45,000
American Revolution Bicentennial Commission	7,100
(Supplemental for 1973)	(2,868)
Indian Claims Commission	1,086
International Radio Broadcasting	44,640
Legal Services Corporation	71,500
National Foundation on the Arts and Humanities:	
Salaries and expenses	153,000
Gifts and donations (trust)	15,000
National Science Foundation:	
Salaries and expenses	579,600
Scientific activities (special foreign currency programs)	3,000
Renegotiation Board	4,690
Small Business Administration, Business loan and investment fund	225,973
Temporary Study Commissions:	
Commission on Highway Beautification (Supplemental for 1973)	(250)
National Commission on Productivity (Supplemental for 1973)	(5,000)
United States Information Agency:	
All federal fund accounts	224,404
Water Resources Council, Water resources planning	3,170
Total, Other Independent Agencies	1,548,603
(Supplementals for 1973)	(8,118)
Grand Total, 1974 budget authority	49,604,190
(Supplementals for 1973)	(8,118)

* Contract authority.

[1] This represents the maximum, and may be reduced when HEW makes a final distribution of the appropriation request among the numerous authorizing statutes. Some of these statutes contain 1974 authorizations; some do not.

[2] Additional authorization for 1973 programs is required as follows:

Interior: Bureau of Indian Affairs: Road construction, $60 million.

Transportation: Federal-aid highway program, $1,300 million.

Urban mass transportation fund, $3,000 million.

SENATE—*Monday, March 19, 1973*

The Senate met at 12 o'clock meridian and was called to order by Hon. FLOYD K. HASKELL, a Senator from the State of Colorado.

PRAYER

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

Eternal and everblessed God, who has given us this season of holy remembrance, help us to follow the example of the Man of Nazareth, who toiled and taught, struggled and suffered as one of us. Help us to walk with His humility that we may be true servants; to walk with His courage that we turn not back from any danger; to walk with His endurance that we may persevere against all evil; to walk with His magnanimity that we may be true gentlemen; to walk with His love that we may be free from hate; to take His cross that we may share His crown; to share His death that we may also share His life.

Bring us at last to the new kingdom. In His name we pray. 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 assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., March 19, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. FLOYD K. HASKELL, a Senator from the State of Colorado, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

MESSAGE FROM THE HOUSE RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of March 15, 1973, the Secretary of the Senate, on March 16, 1973, received the following message from the House of Representatives:

That the House had passed a bill (H.R. 2246) to amend the Public Works and Economic Development Act of 1965 to extend the authorizations for a 1-year period, in which it requested the concurrence of the Senate.

The bill was referred to the Committee on Public Works.

MESSAGES FROM THE PRESIDENT RECEIVED DURING ADJOURNMENT

Under authority of the order of the Senate of March 15, 1973, the Secretary of the Senate, on March 16, 1973, received written messages from the President of the United States, submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received on March 16, 1973, are printed at the end of Senate proceedings of today.)

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, March 15, 1973, be dispensed with.

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

WAIVER OF THE CALL OF THE CALENDAR

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the call of the legislative calendar, under rules VII and VIII, be dispensed with.

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

COMMITTEE MEETING DURING SENATE SESSION

Mr. ROBERT C. BYRD. 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.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may be able to reserve the time that is normally allotted to the distinguished majority leader or his designee under the standing order, because I believe that the distinguished Senator from North Carolina (Mr. ERVIN) and the distinguished Senator from Nebraska (Mr. HRUSKA) have a matter which they will want to take up and I should like to reserve that time and yield it to them.

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

Does the Senator from Pennsylvania desire to be recognized?

Mr. SCOTT of Pennsylvania. Mr. President, I yield back my time.

Mr. ROBERT C. BYRD. Mr. President, if I may, I now yield 5 minutes to the distinguished Senator from North Carolina (Mr. ERVIN).

SEPARATION OF CONSTITUTIONAL POWERS

Mr. ERVIN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 583.

The ACTING PRESIDENT pro tempore (Mr. HASKELL) laid before the Senate the amendments of the House of Representatives to the bill S. 583 to promote the separation of constitutional powers by securing to the Congress additional time in which to consider the Rules of Evidence for U.S. Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure and the Amendments to the Federal Rules of Criminal Procedure which the Supreme Court on November 20, 1972, ordered the Chief Justice to transmit to the Congress, which were to strike out all after the enacting clause, and insert:

That, notwithstanding any other provisions of law, the Rules of Evidence for United States Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure, and the Amendments to the Federal Rules of Criminal Procedure, which are embraced by the orders entered by the Supreme Court of the United States on Monday, November 20, 1972, and Monday, December 18, 1972, shall have no force or effect except to the extent, and with such amendments, as they may be expressly approved by Act of Congress.

And amend the title so as to read: "An act to promote the separation of consti-

tutional powers by suspending the effectiveness of the rules of evidence for U.S. Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure, and the Amendments to the Federal Rules of Criminal Procedure transmitted to the Congress by the Chief Justice on February 5, 1973, until approved by act of Congress."

Mr. ERVIN. Mr. President, I move that the Senate concur in the House amendment in the nature of a substitute for S. 583.

Mr. President, I ask unanimous consent to have printed in the RECORD, the following material relating to this matter:

A copy of the debate which occurred in the House on this matter; a statement relating to the House substitute adopted in the House by a vote of 399 to 1; the testimony made before the House committee by former Supreme Court Justice Arthur Goldberg; a statement of Henry J. Friendly, chief judge, U.S. Court of Appeals for the Second Circuit: and the testimony of James F. Schaeffer, chairman of the Federal Evidence and Procedure Committee of the Association of Trial Lawyers of America; and an excerpt from the House Report No. 93-52 setting forth the reasons why the House took its action and adopted the substitute.

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

FEDERAL RULES OF EVIDENCE

Mr. HUNGATE. Mr. Speaker, I move that the House resolve itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (S. 583) to promote the separation of constitutional powers by securing to the Congress additional time in which to consider the rules of evidence for U.S. courts and magistrates, the Amendments to the Federal Rules of Civil Procedure and the Amendments to the Federal Rules of Criminal Procedure which the Supreme Court on November 20, 1972, ordered the Chief Justice to transmit to the Congress.

The SPEAKER. The question is on the motion offered by the gentleman from Missouri (Mr. HUNGATE).

The motion was agreed to.

IN THE COMMITTEE OF THE WHOLE

Accordingly the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill, S. 583, with Mr. WRIGHT in the chair.

The Clerk read the title of the bill.

By unanimous consent, the first reading of the bill was dispensed with.

The CHAIRMAN. Under the rule, the gentleman from Missouri (Mr. HUNGATE) will be recognized for 30 minutes; and the gentleman from New York (Mr. SMITH) will be recognized for 30 minutes.

The Chair recognizes the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I yield such time as he may consume to the gentleman from New Jersey (Mr. RODINO).

(Mr. RODINO asked and was given permission to revise and extend his remarks.)

Mr. RODINO. Mr. Chairman, I rise in support of S. 583, a bill which as reported by the Committee on the Judiciary properly assures that the proposed Federal rules of evidence will not go into effect without the affirmative approval of Congress.

On February 5, 1973, the Chief Justice of the United States sent to the Congress 77 proposed rules of evidence for use in the Federal courts. Pursuant to the Supreme Court order and the enabling acts under which it issued, the rules will be placed in operation on July 1, 1973, unless the Congress disapproves them before that date.

In passing S. 583, the Senate recognized, without objection, that the complexity of the rules made it impossible for the Congress to work its will within the time frame established by the court order. Therefore, the Senate passed this legislation deferring the effective date of the proposed rules to the end of the first session of the 93d Congress, unless they are earlier approved by the Congress.

Because of the great importance of this subject to our entire Federal judicial system, I, as chairman of the House Judiciary Committee, appointed in this Congress a Special Subcommittee to consider the proposed rules of evidence in depth. That subcommittee, which is chaired by our able and distinguished colleague, the gentleman from Missouri (Mr. HUNGATE) has proceeded diligently and expeditiously. The subcommittee now has a yeoman task ahead of it if it is intelligently, responsibly, and conscientiously to shoulder its responsibility.

The rules are, of course, of primary concern to judges, lawyers, civil litigants, and criminal defendants in our Federal courts. But some of the rules will have a major impact on the day-to-day activities of millions of people who never become involved in litigation. Let me illustrate.

In many States communications between husband and wife are privileged. Disclosure of such communications cannot be compelled in a civil or criminal case. Rule 505, as proposed, eliminates this privilege in the Federal courts in all civil cases and in certain criminal cases. Is this desirable? Will it affect the daily relationships of husbands and wives? Will confidential family communications no longer be encouraged for fear that some day, in some Federal court, one of the couple will be compelled to testify against the other? Should State created policies protecting with relationships be changed by Federal rules of evidence?

Proposed rule 504 eliminates what most of us understand to be universally the law—what we tell our doctor is confidential. Under the proposed rule, only if the information is given to the doctor for purposes of diagnosis or treatment of mental or emotional conditions would the information be privileged. As one witness testified, if a patient sees a doctor about his ulcer and he is considered to be seeing the doctor for the physical ulcer, the information given to the doctor is not privileged. If, however, he is considered to be seeing the doctor concerning the underlying cause of the ulcer—the emotional strain—the information given to the doctor is privileged.

Furthermore, by definition the doctor-patient privilege will exist as between a non-doctor licensed psychologist and patient in some instances, while not existing as between a licensed physician and his patient in other instances. Again, grave public policy and Federal-State relations questions are posed. We have had medical testimony that the quality of medical service may well be affected by the failure of patients to be completely frank for fear that some day, in some Federal court, personal, private information passed on to their doctor will become public. I am speaking of the millions of patients who may never be involved in litigation in a Federal court.

Newsman's privilege, an issue which is the subject of highly controversial hearings presently in progress by another of our subcommittees, is eliminated under these rules in litigation in the Federal courts. This, despite the fact that some 19 States have shield laws which extend such a privilege to newsmen involved in litigation in the courts of those States. Should the happenstance of the court into which the newsman comes—Federal or State—determine his rights? Will this lead to forum shopping and, in effect, eliminate the privilege in those States which have determined as a matter of State policy that such a privilege is in the public interest?

I cite these three issues merely to demonstrate some of the problems with which the Congress must wrestle. The final determinations to be arrived at with respect to them are not of concern to us today, for the legislation before the House is in no way directed to the substantive issues—constitutional or policy. S. 583 is directed at only one objective—assuring the people of the United States that the Congress will have ample opportunity to review the rules developed by distinguished committees of the Judicial Conference. There is only one way to do that—provide that the rules will not be operative until approved by the Congress.

As a result, Mr. Chairman, the Judiciary Committee has amended the bill, S. 583, to require affirmative action by the Congress before the rules can go into effect. The committee amendment, which our committee has approved, was originally offered in the special subcommittee by our distinguished colleague from New York, Congresswoman ELIZABETH HOLTZMAN. The Holtzman amendment is a good amendment and I would like at this time, to commend our distinguished colleague from New York for every constructive role that she has played in the development of this legislation.

I have been assured by the chairman of the subcommittee that the subcommittee proposes diligently to proceed with its hearings and with consideration of the proposed rules. Passage of this bill will in no way alter that plan.

As you know, the Committee on the Judiciary consists exclusively of attorneys, 38 members from 21 States, many of whom have been prosecutors and defense counsel in both State and Federal courts. The committee, by a virtually unanimous vote, reported S. 583. As a result, I urge all of my colleagues here today to give this measure their full support.

Mr. ECKHARDT. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Texas (Mr. ECKHARDT).

Mr. ECKHARDT. Mr. Chairman, I wish to compliment the distinguished chairman of the full committee and also the able gentleman from Missouri in taking this step. These rules, as proposed by the Supreme Court, do raise extremely serious legal questions.

I know that the gentleman's committee will be concerned in its deliberations about questions like newspapermen at present.

Mr. Chairman, if we should act now, it seems to me we would act prematurely on many matters that deserve deep consideration, and as I understood the statement of the chairman of the committee, which I think was very clear, the statement was that if we act now, we will not act substantively to preclude any particular course.

Mr. RODINO. The gentleman is absolutely correct.

Mr. ECKHARDT. And the import was that we will not discard the work of the Supreme Court, but we will simply permit an input by this body to that work.

Mr. Chairman, I compliment the distinguished gentleman for his consideration of this matter.

Mr. RODINO. I thank the gentleman for his contribution.

Mr. GROSS. Mr. Chairman, will the gentleman yield?

Mr. RODINO. I yield to the gentleman from Iowa (Mr. GROSS).

Mr. GROSS. Mr. Chairman, I thank the gentleman for yielding.

Let me see if I have this straight. Did we request the Supreme Court to provide new and different rules of evidence, or how does this come about?

Mr. RODINO. The Supreme Court in the enabling statutes has this authority and transmitted these rules to us as a result.

Mr. GROSS. Yes, and this bill has as its purpose to stop the new rules of evidence from going into effect?

Mr. RODINO. Until such time as the Congress has had an opportunity to study them and come back with its recommendations.

Mr. GROSS. And you will come back to the House asking for affirmative action to put the rules into effect?

Mr. RODINO. That is correct.

Mr. GROSS. Did the gentleman say that these new rules promulgated by the Supreme Court affect the relationship of husband and wife?

Mr. RODINO. Yes, sir. The privileged communications between husband and wife that are presently permitted are affected and are restricted as a matter of fact.

Mr. GROSS. I have been wedded to the same woman for some 44 years. I just wonder how the new rules would affect that relationship. I suppose the proposed new rules of evidence are available to all Members.

Mr. RODINO. They are available.

Mr. GROSS. Yes. I am worried. Are these rules promulgated by the Court with respect to the new women's liberation movement or equal rights movement? Does the gentleman know?

Mr. RODINO. I would leave it up to the gentleman to inquire into that. I am sure he can answer his own question.

Mr. GROSS. I thank the gentleman.

Mr. WYLIE. Will the gentleman yield for a question?

Mr. RODINO. I yield to the gentleman.

Mr. WYLIE. Does this bill provide a new procedure? Are we entering into a new area here for the first time? Have we not heretofore allowed the Supreme Court to adopt rules of evidence on its own under the Enabling Acts?

Mr. RODINO. May I yield to the distinguished chairman of the subcommittee?

Mr. HUNGATE. I thank the gentleman for yielding.

The Federal rules of civil and criminal procedures, as the gentleman probably knows, were promulgated by the Supreme Court many, many years ago and went into effect.

Mr. WYLIE. Without any action by this body?

Mr. HUNGATE. I was not here then, but I do not think any action was taken. If you please, they went in by default as far as the Congress is concerned.

Mr. WYLIE. That is the point I wanted to make.

Mr. HUNGATE. Further, I think there is a distinction made as to those who believe the Courts prehaps properly set their own time that they will meet or how long they will meet and certain proper housekeeping matters which you may want to argue about are truly procedural matters. We have substantial testimony that when you get into the rules of evidence you necesarily get into some areas that are substantive.

Mr. WYLIE. Will the gentleman yield for another question?

Mr. RODINO. Yes.

Mr. WYLIE. I notice the bill we have before us only pertains to a set of rules which have already been promulgated by the Supreme Court and do not pertain to any rules which might be promulgated in the future. Was that question considered in the Committee on the Judiciary as to whether we should pass a law which would provide for a similar procedure for subsequent rules that might be adopted by the Supreme Court?

Mr. HUNGATE. If the gentleman will yield further, this general idea was discussed. I might say to the gentleman that there are other areas such as the bankruptcy rules promulgated by the courts which go into effect that way, but we are dealing with a bill originally which we received from the Senate and which we thought had much merit to it, and we hoped that we might possibly approve it. We did not want to undertake too far-reaching an exhibition as to all the enabling acts before the Congress. We thought we would confine ourselves to this one at this point.

Mr. WYLIE. I see. I thank the gentleman.

Mr. RODINO. Mr. Chairman, I yield back the balance of my time.

Mr. SMITH of New York. Mr. Chairman, I yield myself as much time as I may consume.

(Mr. SMITH of New York asked and was given permission to revise and extend his remarks.)

Mr. SMITH of New York. Mr. Chairman, I support S. 583 as reported by the committee. This proposed legislation serves two valuable purposes. First, it provides the Congress with additional time needed to study the rules of evidence transmitted by the Supreme Court which would otherwise become operational on July 1, 1973. Second, by providing that the rules shall not become effective until such time, and with such amendments, as they are approved by the Congress, the bill as reported recognizes both the importance of, and the problems with, the proposed rules of evidence, and so requires the Congress to play an active role in their promulgation.

It should be noted that the bill, S. 583, which passed the other body on February 7, 1973, would satisfy only the goal of extending the time of Congress in which to consider the rules; it would not, as does this bill as reported by the committee, assert the primacy of the Congress in connection with these rules, by making their effectiveness dependent upon affirmative congressional action.

The need for both additional time to study the rules and for the Congress actively to participate in the rulemaking process in this instance was demonstrated by the evidentiary hearings held on the proposed rules of evidence by the Special Subcommittee on Reform of Federal Criminal Laws of the Judiciary Committee.

Four days of hearings at which more than 20 witnesses testified, as well as an examination of the lengthy and complicated rules themselves showed plainly that these rules were not of the ordinary character, affecting only technical procedural matters, which the Supreme Court has heretofore promulgated. Rather, the hearings revealed that, among other things, there were constitutional difficulties with some of the proposed rules insofar as they purported, in certain civil cases, to supplant State laws in the area of privilege; that, because of the arguably substantive nature of some of the proposed rules, there was also a serious question whether the rules were within the authority granted by Congress to the Supreme Court in the enabling acts to promulgate rules of "practice and procedure"; that the method of promulgation of these rules by the Advisory and Standing Committees of the Judicial Conference may have been deficient in not affording all interested persons and organizations an opportunity for comment; and that the content and wisdom of a number of specific rules was open to extensive debate.

Mr. Chairman, the bill as reported by the committee will permit the Congress to consider these problems and, if deemed appropriate, to amend the rules to try to solve them. I note that the bill as reported has had overwhelming support. It was reported by the subcommittee with only one dissenting vote and in the full committee by a similarly near-unanimous voice vote. The member of the Judiciary Committee of the other body, who introduced S. 583, has written a letter stating that he will support the bill as reported here. The ranking member of the Judiciary Committee of the other body also has assured the committee of his satisfaction with the bill as reported.

The sole concern expressed has been that this bill not be used as a means to unduly forestall or prevent rules of evidence from being promulgated, thereby destroying the valuable work of the eminent judges, scholars, and practitioners who labored for many years to produce the proposed rules. Let me state in response to this concern that there is no intention by this bill to scuttle the rules of evidence. As the committee report makes clear, the committee intends to proceed as promptly as possible toward a consideration of the rules. Indeed the Special Subcommittee on Reform of Federal Criminal Laws, on which I serve, has already scheduled meetings for the following week to this end.

Mr. Chairman, the bill as reported will greatly facilitate the Congress study of these rules. I therefore urge that it be passed.

The only objection to this bill that we heard was that this might be just a method of stalling action on these rules of evidence, and that no action would be taken. I think probably the chairman of the subcommittee, the distinguished gentleman from Missouri (Mr. HUNGATE) will tell the Members that he has no such intention, and I believe he has already introduced a bill as a working tool for the handling of this matter.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I will be happy to yield to the gentleman from Missouri.

Mr. HUNGATE. Mr. Chairman, I have indeed, under the sponsorship of other colleagues on the Committee on the Judiciary, introduced a bill which involves all of the proposed rules. And I will make a statement of disclaimer, if you wish, that while some of these rules may improve the administration of justice there are others I might amend myself, but that the purpose of that bill is to bring all of the rules before the Congress, and not so as to take on a do-nothing attitude, but to examine the work that has been done for 7 or 8 years by a very distinguished committee, and certainly it would be very unusual if they have not found contributions that add to the administration of justice. We have just one more day of hearings, and then we have scheduled markup sessions.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. SMITH of California. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I think it would be helpful if a member of the committee would give us some idea as to the way they will handle the problem areas. The gentleman stated, I believe, that 80 or 85 percent of the proposed rules changes are not controversial, and that leaves another 20 percent that we would have to worry about. We had one of these areas mentioned which involved the husband and wife privilege, but I wonder if we could have some idea of the other controversial area touched on so that we may have some idea as to what they are?

Mr. SMITH of New York. I would say to the gentleman from New York, Mr. Chairman, that because I am not an expert in the field of the controversial proposed new rules, I am going to let someone else answer the gentleman's question, but before I do so I would state to the gentleman from New York that that matter is not before us today.

Mr. WYDLER. I understand that.

Mr. SMITH of New York. Because essentially this subcommittee and the full committee have not had the opportunity yet to go into the rules that may or may not be controversial, and to have hearings on them.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Missouri.

Mr. HUNGATE. To zero in on an area of ready controversy, I recommend article V to the

Members which deals with all of the privileges: husband and wife; doctor and patient; where they have newsman privilege, there would be no such privilege; secrets of State; and official information. I have not covered it all, and that is a shorthand version of the section.

Another section would be hearsay; but I think my colleagues on the Committee would agree that article V is where we heard a general amount of concern.

Mr. WYDLER. I thank the gentleman.

Mr. GROSS. Will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Iowa.

Mr. GROSS. I wonder if when the Committee brings their report or bill to the House, will it be considered, would the gentleman think, under an open rule? I ask that question because of this element of the husband-and-wife relationships. I might want to offer an amendment to that, after spending the years I have in that relationship.

Mr. SMITH of New York. I would say to the gentleman as far as I know, as far as this person is concerned, we have had only the barest preliminary discussion on this matter. No decision has been reached and we have not come anywhere near it.

Mr. HUNGATE. Will the gentleman yield?

Mr. SMITH of New York. I yield to the gentleman from Missouri.

Mr. HUNGATE. The gentleman from Iowa as usual asks very perceiving questions. This is precisely the question the distinguished Committee on Rules put to us. I think our response there was: It was, of course, difficult to speak for all of the members of the Committee on the Judiciary to say what sort of a rule we would be back seeking.

My comment in the committee was that after we have examined this thoroughly, for my part I do not have much fear of putting it to an open rule.

The gentleman has raised an interesting point twice. I think this husband-and-wife situation could concern us all. We realize in some cases it may be a privilege on one side and a hardship post on the other.

Mr. GROSS. Will the gentleman yield further?

Mr. SMITH of New York. I yield to the gentleman from Iowa.

Mr. GROSS. I would be happy if it would be an open rule, but I can see a field day for lawyers, with nonlawyers taking a back seat, if the rules of evidence come up under an open rule. There would be one big field day for the lawyers.

Mr. SMITH of New York. Mr. Chairman, the bill as reported I think would greatly facilitate the Congress study of these proposed rules.

I urge that it be passed. I reserve the balance of my time.

(Mr. HUNGATE asked and was given permission to revise and extend his remarks.)

Mr. HUNGATE. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the distinguished former Member of Parliament, A. T. Herbert, once wrote:

"The question 'What is the law?' is one which frequently arises in our courts and sometimes receives a satisfactory answer."

We on this committee propose at least to consider very carefully this area of the rules of evidence and to seek what might be some appropriate answers.

The bill before us is a short, simple bill. It provides that the 77 Rules of Evidence which have been proposed for use in the Federal courts shall not become effective except to the extent, and with such amendments, as they may be expressly approved by act of Congress. By an overwhelming voice vote the Committee on the Judiciary has recommended its passage.

Permit me briefly to outline some of the background and events which have brought us to the point where S. 583 is before this committee for approval.

By orders dated November 20, 1972, and December 18, 1972, the Supreme Court of the United States authorized the Chief Justice to send to Congress proposed Federal Rules of Evidence and amendments to the existing Rules of Civil Procedure and Rules of Criminal Procedure. This he did on February 5, 1973. In its initial authorization order, the Court stated that the proposed evidence rules were prescribed pursuant to sections 3402, 3771 and 3772, title 18, United States Code, and sections 2072 and 2075, title 28, United States Code.

The cited sections of law are commonly known as rules enabling acts. In essence, they empower the Supreme Court to prescribe rules of practice and procedure. Sections 2072 and 2075 of title 28 authorize the promulgation of civil and bankruptcy rules, and section 3771 of title 18, authorizes the promulgation of criminal rules for use up to and including verdict. These three sections provide, in pertinent part:

Such rules shall not take effect until they have been reported to Congress by the Chief Justice * * * and until the expiration of ninety days after they have been thus reported.

Sections 3402 of title 18 and 3772 of title 28 relate respectively to proceedings before U.S. magistrates and criminal proceedings after verdict. They do not contain the 90-day provision; rather section 3402 is silent as to effective dates, and section 3772 provides that the Supreme Court may fix the effective dates of rules promulgated pursuant to that section.

There is some confusion as to whether the rules will become law for any purposes on May 6, 1973—90 days after their transmittal of February 5—even though their implementation date has been fixed by the Court as July 1, 1973.

In either case, unless an act of Congress is signed into law by the President before July 1, 1973, the rules would be effective on that date in the 11 U.S. circuit courts of appeals, the 93 U.S. district courts, the District Court for the District of the Canal Zone, and the district courts of Guam and the Virgin Islands, and in proceedings before U.S. magistrates.

The special subcommittee of the Committee on the Judiciary opened hearings on the proposed rules on February 7, 2 days after they were received by the Congress from the Chief Justice. We have to date had 5 days of hearings—each running into the afternoon. We continue on March 15.

It is clear from the testimony, and from the materials submitted for our hearing record, that there are substantial constitutional, other legal, and policy questions to be resolved with respect to the proposed rules before any of them should be permitted to become effective.

Witnesses, including former Supreme Court Justice Arthur Goldberg, Chief Judge Henry J. Friendly of the Court of Appeals for the Second Circuit, and Attorney General Robert W. Warren of Wisconsin, who is the president-elect of the National Association of Attorneys General, as well as spokesman for the American College of Trial Lawyers, the National Legal Aid and Defender Association, and the Department of Justice, and indeed, those who appeared on behalf of the Judicial Conference, have brought to the attention of the committee numerous issues, of which the following are illustrative:

First. Can the Supreme Court constitutionally promulgate rules of evidence? Is that a legislative prerogative? Can even the Congress enact rules which impinge on State-created substantive rights?

Second. Are the rules of evidence within the purview of the authority granted the Supreme Court by the enabling acts? Are they rules of practice and procedure? Justice William O. Douglas, dissenting from the Court action, said he doubted that they were.

Third. Assuming no constitutional or other legal problems, and that the rules are within the authority conferred by the enabling acts, is it wise and is there a need as a matter of policy to have rules of evidence uniform in the Federal courts across the country? It is more desirable to have rules uniform as between the Federal courts and the States in which they sit?

Fourth. Has there been enough exposure of the proposed rules for interested and affected persons and organizations to comment? For example, the American Bar Association itself is not yet in a position to speak to the rules. As reflected in correspondence from the president of the association to the chairman of the Committee on the Judiciary:

"The Rules of Evidence * * * which were authorized to be submitted to the Congress * * * have never been submitted to any Committee of the American Bar Association, and contain new matters which were not included in any earlier draft submitted or considered by the ABA."

A number of specific rules have been the focus of considerable adverse testimony. Among these are rules relating to the role of the judge at trial—rules 105 and 706; presumption—rules 301 to 303; privileges—lawyer-client, rules 503; doctor-patient, rules 504; husband-wife, rules 505; and secrets of state and other official information, rules 509—newsmen's privileges where existent, 18 States. Other rules which have been the subject of considerable attention by the witnesses include those relating to the disclosure of the identity of informers—rule 510; impeachment of witnesses by evidence of conviction of crime—rule 609; and those relating to hearsay evidence. The questions which have been raised are most difficult and complex. They involve not only law and policy questions, but delicate questions of Federal-State relations.

Even before the proposed rules were sent to the Congress, it was clear they would generate considerable controversy. As a result, Senator ERVIN introduced S. 583, to defer to the end of the first session of the 93d Congress the effective date of the rules. This bill passed the Senate without objection on February 7, 2 days after the Senate Committee on the Judiciary reported it, also without objection.

The hearings conducted by our subcommittee serve to emphasize that Congress should not have to act under the gun. Clearly, the 168 pages of rules and advisory committee notes which were almost 8 years in the making deserve deliberate, careful congressional consideration. The rules should not be permitted to become effective without affirmative action by the Congress.

There are some who have interpreted the Judiciary Committee bill as intended to kill the rules. This is not so. Other members of the special subcommittee and I and members of the full Committee on the Judiciary have stated in open hearings and meetings our intention to proceed diligently with consideration of the work product of the distinguished Judicial Conference Committee on Rules of Practice and Procedure and its Advisory Committee on Rules of Evidence. We propose to fulfill this commitment.

In this connection, I might mention that the first markup sessions for the rules are scheduled for March 21 and 23. Also, on March 12, I introduced, along with a number of my Judiciary Committee colleagues, H.R. 5463, a bill to enact the rules as proposed by the court. The bill is intended as a vehicle on which the Congress may work its will. It is not necessarily intended by its sponsors as a blanket endorsement of the rules, or even of the concept that uniform rules are necessary or desirable. There is no doubt that some

Members will conclude we should not have uniform rules. Others will take issue with specific articles or rules, recommending they be stricken in their entirety or amended in some respects. I, myself, may well propose some changes. On the other hand, some of the proposed rules have, to date, engendered no substantial controversy at the hearings.

To summarize, the nature, complexity, and potential impact of the subject before the Congress make clear that the proposed rules of evidence should not be permitted to go into effect by congressional inaction. The fundamental rights and human relationships which will be affected by the rules, both in and out of the courts, require that the rules be permitted to become effective only if, when, and to the extent they are affirmatively approved by the Congress.

I urge the committee to approve S. 583 in its present text.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. HUNGATE. I yield to the gentleman from Michigan.

Mr. HUTCHINSON. Mr. Chairman, first I would ask the gentleman whether he would agree this bill does not represent any kind of confrontation with the Court. The Court agrees that the power is in the Congress to do as it will with these rules of evidence.

Mr. HUNGATE. The gentleman makes a point that should be made. The testimony of the Federal judges before us agreed on that, and the members of this distinguished committee unanimously said this province belongs to the Congress and if the Congress chooses to assert it, the judges do not question that power.

Mr. HUTCHINSON. The other point I wanted to raise with the gentleman has already, I think, adequately been touched upon, but because of some fear that has been expressed in other areas I would like to join the gentleman in his statement that the Judiciary Committee wants to state in the clearest possible way that it has no intent to delay or to taken any course of action which might result in inaction. It is the purpose of the committee not only to have these 2 days of markup sessions next week but also we are going to continue and there are going to be some positive results in this session of the Congress, hopefully by this summer. Is that correct?

Mr. HUNGATE. Correct.

I thank the gentleman for his contribution and I would like to concur in his remarks and state I have a tentative deadline. There are nine members of the subcommittee as the gentleman knows, and there is also the full committee, but my deadline is the 1st of July. I would like to see us finish several weeks ahead of that if we could. We are working on this legislation to postpone that effective date, but until it is passed we had better be ready on these substantive questions also. There is no intention on the part of this committee of which I am aware to delay this in any way.

Mr. HUTCHINSON. Mr. Chairman, I thank the gentleman.

Mr. SMITH of New York. Mr. Chairman, I yield 1 minute to the gentleman from Illinois (Mr. MCCLORY).

(Mr. MCCLORY asked and was given permission to revise and extend his remarks.)

Mr. MCCLORY. Mr. Chairman, I rise in support of this measure. I hope the House will act favorably upon it.

I cannot help but remark that the committee which developed these rules has done a highly commendable job. I have joined with the gentleman from Missouri (Mr. HUNGATE) as a cosponsor of these rules as legislation. This does not indicate my full support of all the rules, but it does indicate that a subtsantial part of these codified rules should be given prompt approval by the Congress.

I hope that we will act affirmatively on the measure before us today, and that we will give approval to substantially all of these codified Federal rules of evidence at an early date.

Mr. SMITH of New York. Mr. Chairman, I yield 5 minutes to the gentleman from Indiana (Mr. DENNIS).

(Mr. DENNIS asked and was given permission to revise and extend his remarks.)

Mr. DENNIS. Mr. Chairman and members of the Committee, I, too, am on the subcommittee headed by the gentleman from Missouri (Mr. HUNGATE). I, too, support the action of the subcommittee in regard to these proposed new rules of evidence for the Federal courts. That action has already been described to the Committee and it consists, as the members have been told, basically in a bill which, rather than having the rules which the court has transmitted become law automatically on the expiration of the date unless we act to the contrary, will result in these rules not becoming law until and unless we enact them into law.

I favor that approach on general principles, and also because there are controversial portions of these rules which I think many Members of the House will be interested in addressing themselves to. The rules in general are good. They are the product of the work for a number of years of a very distinguished committee of lawyers. I would like to emphasize what has already been said, that it is no part of the intention of this subcommittee to fail to act.

We are going to present promptly a bill to the House which will in its essentials be these rules, possibly with some amendments made by the committee, and which we will offer as a piece of legislation to the Congress in the near future.

Mr. WYLIE. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Ohio.

Mr. WYLIE. Let us assume for the moment that this bill is passed and that the Congress acts on this new set of rules and that they become law. Could the Supreme Court after Congress adjourns sine die adopt a change of those rules?

Mr. DENNIS. I would assume that in theory they could, so long as the enabling acts under which these rules were adopted remain on the books, but I think it would be exceedingly unlikely that they in fact would do so, because the bill we will present will be essentially the Court's rules, which the Court has transmitted after having its commission work on them for about 8 years.

Mr. HUTCHINSON. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Michigan.

Mr. HUTCHINSON. I should like to respond to the question raised by the gentleman from Ohio.

Of course, the gentleman understands that if the Supreme Court should propose to promulgate a rule under the law after we adjourn it could not become effective until after that rule had again been transmitted to the Congress for 90 days.

Mr. DENNIS. That is correct also.

Mr. WYLIE. I know that is correct.

Mr. Chairman, will the gentleman yield for a followup question?

Mr. DENNIS. I yield to the gentleman from Ohio.

Mr. WYLIE. This bill applies only to this particular set of rules, and would apply only until the next 90 days or so. Is it 90 days?

Mr. DENNIS. The bill before us now, of course, will provide that these rules will have no force and effect until and unless we adopt them by future legislation.

Mr. WYLIE. I believe the point I want to make is, why did not the committee recommend legislation which apply to future recommendations?

Mr. DENNIS. I will have to say on that subject—and I will be glad to yield to my distinguished chairman—to do that we would have to get into the whole matter of the enabling acts, which apply not only to these rules but also to the authority to adopt, for instance, the Rules of Civil Procedure and the Rules of Criminal Procedure and where the authority of the Court to act is plainer than it is in this field. I may say that the committee did not want at this time to get into that fundamental type of revision.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Missouri.

Mr. HUNGATE. I thank the gentleman for yielding.

In further response to the inquiry of the gentleman from Ohio, the gentleman from Michigan, I believe, very ably stated the situation regarding the possibility of the court extending the rules.

Section 2072 of title 28, Judiciary and Judicial Procedure, specifically provides:

Such rules shall not take effect until they have been reported to Congress by the Chief Justice at or after the beginning of a regular session thereof but not later than the first day of May, and until the expiration of ninety days after they have been thus reported.

I have used the gentleman's time, and I will yield him an additional minute.

I want to say to the gentleman from Ohio that I believe we felt we were breaking new ground on the proposed evidence code when compared to prior handling of the bankruptcy rules, the Federal rules of civil procedure, the Federal criminal rules, all coming into effect without congressional action. We were hesitant to do that.

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. SMITH of New York. Mr. Chairman, I yield the gentleman from Indiana 2 additional minutes.

Mr. HUTCHINSON. Mr. Chairman. will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Michigan.

Mr. HUTCHINSON. I believe we should make the point again that there is an honest question as to whether the enabling acts which refer to the rules of practice and procedure were intended to cover the rules of evidence.

The rules of evidence, in the minds of many attorneys, at least, are something different from the rules of practice and procedure. So there is a question as to whether those enabling acts cover the rules that have been promulgated.

I believe that under these circumstances the Congress had a duty to act affirmatively on this question.

Mr. DENNIS. I will say that I concur with the remarks of the distinguished gentleman from Michigan.

I might add—and this goes to the point asked by the gentleman from New York (Mr. WYDLER) a minute ago—that question particularly arises on this subject of privilege.

There is not only the husband and wife privilege, but the physician and patient privilege, the privilege with respect to Government secrets, the privilege, if any, with respect to police informers, and so on.

Mr. Chairman, there is a very serious question whether those may, in fact, be matters of substantive law, rather than procedure, and, if so, whether they should not be governed by the laws of the States where the court sits under the normal doctrine of Erie versus Tompkins. That is one of the things to which the committee will be addressing itself.

Other portions are less controversial in that sense, but there are other rules of evidence which do not pertain to substance, so much, but which also may be matters on which people have various views, such as

modifications of the hearsay rule, for instance, which is a basic, fundamental part of the laws of evidence, matters of impeachment of witnesses, presumptions, and other things which may need our attention.

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, what bothers me is this, for example: I have just read this article 5 that the chairman of the subcommittee referred to. That particular article does not say one word about newsmen's privileges at all; it does not even mention it. It just avoids the question and, I suppose, leaves you with the assumption there is none.

The CHAIRMAN. The time of the gentleman has expired.

Mr. HUNGATE. Mr. Chairman, I yield 2 additional minutes to the gentleman from Indiana (Mr. DENNIS).

Mr. DENNIS. Mr. Chairman, I thank the gentleman for yielding.

I will yield further to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, what I can see developing here is a very difficult legislative situation. The Committee on the Judiciary, as I understand it, has a special subcommittee looking into this particular question of newsmen's privilege. I do not know whether they are going to act or what kind of action they may take or may not take, but that particular matter alone could tend to hold up the whole consideration of this overall review, the current review and reform of the rules of evidence.

Mr. Chairman, I would like to ask that, as a matter of policy, as far as the Committee on the Judiciary is concerned, how is this matter going to be handled? Is this going to be handled by one subcommittee or the other subcommittee, or is this going to become bogged down in a jurisdictional dispute, or is this whole bill going to be hostage to this one question?

Mr. DENNIS. Mr. Chairman, I will yield later to the gentleman from Missouri (Mr. HUNGATE) but first on my own behalf I would just like to say this to the gentleman:

Under these rules as provided there is no newsman's privilege, and the rules also state that the privileges as listed, which do not include the newsman's privilege are the only privileges.

Mr. Chairman, my personal hope would be that under those circumstances—because, as the gentleman says, that is a very controversial issue, and because there is a separate bill on the subject—that whatever might be done on that subject, as far as I am concerned, I would like to see left to the other bill and not brought into this one.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Missouri (Mr. HUNGATE).

Mr. HUNGATE. Mr. Chairman, I thank the gentleman for yielding.

Mr. Chairman, if the gentleman who spoke to the House is from one of the 16 or 18 States where the newsmen have this privilege, and if we do not act by July 1 at the latest, those States newsman's privilege will be out the window as far as the Federal courts are concerned. Am I correct in that?

Mr. DENNIS. I think that would be true, yes, in answer to the gentleman's question.

Mr. WYDLER. Mr. Chairman, will the gentleman yield further to me?

Mr. DENNIS. I yield further to the gentleman from New York (Mr. WYDLER).

Mr. WYDLER. Mr. Chairman, that is not the thing that bothers me. I am worried about what is going to happen legislatively, because we are going to have two different subcommittees of the Committee on the Judiciary considering this matter. One of the subcommittee, I understand, is almost exclusively concerning itself with this newsman's privilege problem, but now another subcommittee is going to be concerned with this in the sense that the committee is coming into the general reform of the rules, which includes the section concerned with the newsman's privilege.

The CHAIRMAN. Once again the time of the gentleman has expired.

Mr. HUNGATE. Mr. Chairman, I yield 1 additional minute to the gentleman from Indiana (Mr. DENNIS).

Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman for response.

Mr. HUNGATE. I would say to the gentleman that both of these matters will be referred to the full committee as well as the subcommittee, and I think I can assure the gentleman that we will not come out of the full committee with two separate reports and two different bills on this question. All we are requesting the Members to do here today is to give us additional time to study this newsman's privilege problem, because otherwise the new rules will do away with that in some of the States that already have them, and this will give us further time to consider it.

Mr. TREEN. Mr. Chairman, will the gentleman yield?

Mr. DENNIS. I yield to the gentleman from Louisiana.

Mr. TREEN. Mr. Chairman, I thank the gentleman for yielding.

I am a little bit concerned about this. I appreciate the purpose of this bill. It will hold up the effectiveness of the amendments to the Federal law on civil procedure and criminal procedure, and it will also hold up the effectiveness of the rules of evidence.

We have not heretofore had a formal code of evidence as we have had in the rules of procedure. Will some smart criminal lawyer defending someone try to suggest that the effect of this bill would be not to have any rules of evidence at all until we act? I think there is a distinction between the civil procedure——

The CHAIRMAN. The time of the gentleman from Indiana has expired.

Mr. DENNIS. Mr. Chairman, will the gentleman yield me 1 additional minute?

Mr. SMITH of New York. Mr. Chairman, I will yield the gentleman 1 additional minute.

Mr. DENNIS. I yield further to the gentleman from Louisiana.

Mr. TREEN. I thank the gentleman.

We are dealing with amendments to a code of procedure both on the civil and the criminal side, but we are not dealing with amendments to a code of evidence in effect. We are dealing with the first code of evidence really being promulgated by the Court. Since you are holding up the effectiveness of that code of evidence, will some smart lawyer be able to say that you do not have any rules of evidence at all until Congress acts?

Mr. DENNIS. I do not think so. I think we have rules of evidence now which are not codified, of course, but can be used as they have been before unless we have done some changing.

Mr. TREEN. I am concerned about it, and I hope you are right.

Mr. DENNIS. I think that is correct.

Mr. HUNGATE. Mr. Chairman, I yield 6 minutes to our colleague on the committee, the gentlewoman from New York (Miss HOLTZMAN).

(Miss HOLTZMAN asked and was given permission to revise and extend her remarks.)

Miss HOLTZMAN. Mr. Chairman, I rise in support of S. 583 as reported. I wish to express my appreciation for the bipartisan support given to the bill before us and for the distinguished efforts of the subcommittee chairman, the gentleman from Missouri, and the chairman of the Committee on the Judiciary, the gentleman from New Jersey.

The bill before us now consists of an amendment of S. 583 as originally passed by the Senate. As a freshman, I am particularly pleased that this amendment, which I proposed, was reported favorably by the subcommittee considering the proposed Rules of Evidence, the Judiciary Committee as a whole, and the Committee on Rules.

The bill before us provides that the proposed rules of evidence for the Federal courts cannot take effect unless and until Congress explicitly enacts them, with or without changes.

It is urgent that we adopt S. 583 as reported. For, if we take no action, the proposed rules would automatically become law on May 6, the end of the 90-day congressional review period specified in the enabling acts. Yet it is important that we deliberate carefully over these rules before they go into effect.

The proposed rules of evidence do not deal with abstruse legal technicalities. They seek to resolve social issues over which there is now vast national debate: executive secrecy, the newsmen's privilege, and individual privacy.

For example, the Rules permit the executive branch to shroud its activities in secrecy by creating an expanded doctrine of state secrets. Thus, the Government could prevent disclosure of any Government secret—whatever that may be—simply by showing that the so-called secret might disclose matters relating to national defense or international relations. The Government is not required, as it is now, to show that the disclosure of the secret would adversely affect national security. Executive secrecy is also expanded under a vague doctrine of official information which would shield Government documents presently available to litigants.

In addition, the Rules forbid the use in Federal Courts of the newsmen's privilege and the traditional doctor-patient privilege and severely narrows the long-established right of husbands and wives to keep their communications private—even in diversity cases.

As the hearings have shown, these Rules raise problems of a constitutional dimension. By narrowing the husband-wife privilege they may violate constitutional rights of privacy. By constricting the hearsay doctrine they may abridge a criminal defendant's right under the sixth amendment to confront his accusers. And, it may be that article III of the Constitution prohibits the Supreme Court from promulgating certain substantive rules of evidence, except in the context of a particular case or controversy.

Moreover, to the extent that these rules deal with substantive rights as opposed to housekeeping court procedures the drafters may have overstepped the bounds of congressional authority delegated in the Enabling Act.

The gravity of the issues raised by these proposed rules of evidence dictates that Congress carefully review them. Needless to say, 90 days, the time we now have for such review, clearly is inadequate.

Moreover, if we are to deal meaningfully with the issues raised, it is not sufficient simply to postpone the 90-day deadline—as S. 583 originally provided.

Mere delay does not protect the integrity of the legislative process. Thus, the proposed rules would still go into effect if the House, after lengthy deliberations, enacted revisions but the other body prior to the deadline did not act or could not agree with the House on changes to the be made.

It is demeaning for the Congress to work under the threat of a deadline with the attendant risk that inaction would result in rules that are unacceptable to either body.

Finally, in matters as important as this, Congress should always act explicity and affirmatively. Legislation by inaction is not a practice which this body can adhere to and command the respect of the American public.

The process under which these rules were drafted further demonstrates the need for

careful congressional scrutiny. These rules do not come to us with the benefit of widespread public comment and criticism. In fact, major changes in the rules were made virtually at the last minute, essentially as a result of the intervention of the Justice Department and without the opportunity for any public comment. Consequently, many groups including the American Bar Association have requested that Congress postpone the effective date of the rules to permit them time to consider and comment on them.

By adopting S. 583 as reported this House will take a major step toward reasserting its congressional prerogatives. It is Congress—not the Supreme Court or the Justice Department—which has the prime responsibility for establishing national policy with regard to executive secrecy, newspaperman's privilege and personal privacy. We have, indeed, been grappling with these problems in this very session of the Congress. It we fail to adopt the bill before us we would be delegating the law-make function to an unholy alliance of congressional inaction, executive intervention and judicial fiat.

It is for these reasons, Mr. Chairman, that I urge the adoption of S. 583 as reported.

At this point, Mr. Chairman, I would like to include in the RECORD a memorandum that I have prepared which discusses in greater detail the objections to the various rules that became apparent as a result of the hearings held by the subcommittee which considered these rules:

MEMORANDUM CONCERNING PROPOSED RULES

1. The Rules abridge many important existing substantive rights of federal court litigants, thus violating principles of federalism.

This is true not only of Article V, which by abrogating present and future state-created privileges in the federal courts and substituting its own set of more limited privileges would eliminate the traditional doctor-patient privilege, narrow substantially the long-standing husband-wife privilege, and make inapplicable state statutes or common law protecting newmen's sources and the confidentiality of the accountants' and social workers' relationships with their clients.

The Rules' abridgement of substantive rights extends beyond privileges. For example, the rules write a new federal doctrine of presumptions (article III) and bar application of State Dead Man's statutes. Those state-created rights also reflect considered state policy judgments that the Rules would override.

The Rules' treatment of privileges was perhaps singled out for criticism by so many witnesses because laws of privilege assure *all* citizens, not just those in court, of the confidentiality of important relationships; abolition of those laws will affect the relationships of *all* citizens, and the ability of those doctors, newsmen, accountants, etc., to serve the public well.

2. The Hearings exposed widespread objections from the bar and public to many other provisions that adversely affect "substantive" rights of litigants.

Testifying bar groups expressed *uniform* opposition to the overall treatment of hearsay evidence and to many particular hearsay provisions. Testimony revealed considerable controversy surrounding provisions governing use of testimony given at preliminary hearings and conduct of those hearings; impeachment of criminal defendants by prior convictions; the effect of the Rules on conspiracy trials; the power of the trial court to summarize the evidence himself; court-appointed "experts" who attain the court's imprimatur; treatment of character evidences; exclusion of prejudicial evidence; juror testimony; impeachement by prosecutors of their own witnesses; and many individual formulations of privileges rules.

3. Rule 509 on governmental secrecy is especially controversial.

All the bar groups that testified, Judge Friendly, and Justice Goldberg concurred on three points: (a) the Rules' definitions of "state secrets" and "official information" that the Government may deny to litigants go far beyond existing case law and executive order; (b) that new in camera procedures for evaluating such claims are unprecedented and unwise; and (c) that the Rules appear to eliminate the traditional balancing test between the needs of the Government and litigant that has been enunciated in previous Supreme Court and lower court cases. They also agreed that the Rules unwisely import the Freedom of Information Act limitations into the litigative forum, and might even narrow the range of information available to the public under that Act.

4. A large number of witnesses criticized the Rules' poor and confusing drafting, inadequate explanatory Notes, and the failure to take into account many of the Constitutional doctrines and safeguards surrounding evidentiary questions.

Some of these problems may be laid to the attempt to make one set of Rules fit both civil and criminal cases. But drafting errors like excluding the state governments from the protection of Rule 509, and failure to consider the effect of the Constitution's confrontation clause on the validity of article VIII on hearsay, are typical of a wide variety of fundamental difficulties.

5. There is serious doubt about the Rules' validity.

The Hearings raised the question whether the drafting committees have acted properly within their statutory delegation of power, 28 U.S.C. §§ 2072, 3771, which explicitly forbids them to "modify, abridge or enlarge any substantive right," or within the Constitutional commands of the Supreme Court. For instance, every bar group, as well as Justice Goldberg and others, held that the doctrine of *Erie Railroad* v. *Tompkins* mandates federal court recognition of state-created privileges in diversity cases. The Second Circuit Court of Appeals has also so held. Yet the drafters repudiate this position. (The Rules would also end existing practice whereby state privileges are often given considerable deference by federal courts in federal question and criminal trials.)

6. The Bar opposes approval of these Rules.

Not a single bar association or lay professional group has come forward to favor adoption of these Rules. The American College of Trial Lawyers, American Trial Lawyers Association, Association of the Bar of the City of New York, an Ad Hoc group of New York Trial Lawyers, the Washington Council of Lawyers, Justice Goldberg, Judge Friendly, and the National Legal Aid and Defender Association all opposed adoption of these Rules. The A.B.A., which is on record favoring at least delay, obviously has serious reservations—especially since it was never consulted with regard to the final draft of the Rules. While the drafters themselves gave vague answers to questions concerning the bulk of comment to earlier drafts of the rules, the fact is that the majority of comment from bar groups throughout the country was hostile not only to whole articles of the Rules dealing with presumptions, privileges, and hearsay, but also to many other provisions retained in the final draft.

7. There is no pressing need for black-letter code of evidence or for uniformity between states as opposed to uniformity within each state among the state and federal courts.

Most bar associations testifying disputed the proposition that Rules are very seriously needed at all, or that the interest in uniformity between various jurisdictions is stronger than the recognized need (being served by the present scheme) for uniformity within each state between the evidentiary doctrines of the state and federal courts. Indeed, Judge Friendly and three bar groups testified that adoption of a rigid black-letter law evidentiary code would be a step backwards. They pointed to the prolongation of trials and increase in appellate reversals, the denial to trial judges of flexibility, the difficulty of dealing with evidentiary issues by black-letter law, and the disadvantage of cutting off development of the law in many areas where such development, on a case by case basis, was presently desirable. On the other hand, no convincing case has been made for such a code. Only one state has adopted either Uniform Rules of Evidence or the Model Evidence Codes; in those three states that have statutory evidence codes, they seem to have been ignored more than utilized.

8. The Hearings revealed critical flaws in the process by which the Rules were adopted: neither the public nor the bar were given adequate opportunity for scrutiny or input.

While the Rules make important public policy judgments, the drafters made no attempt to inform or solicit comment from the public or even those directly affected, like doctors and newsmen. After circulation of a Preliminary Draft in 1969, the drafters submitted their revisions to the Supreme Court without publication; but the Court declined to consider them until publicized. Even then, the Revised Draft was sent directly only to those who had commented before.

At this point, the Justice Department energetically intervened, requesting key changes which had been requested before but rejected by the drafters. In the course of less than two months, (a) very substantial changes were made in a score of key rules, including a complete rewriting of Rule 509 on governmental secrecy, and (b) the changes were approved by the two drafting committees and Judicial Conference and sent to the Supreme Court without publication or circulation to anyone.

During the following year the final revisions were never published; they were available only to the Justice Department and to persons who happened to learn that they had been made and requested a xerox copy from the drafters. Thus, when the Supreme Court issued the Rules in November 1972, even the A.B.A. was taken by surprise to find in them many new provisions it had never before seen.

To the inadequate procedures may be laid in part the apparent bias of Article V in favor of governmental secrecy and against individual privacy, much of the poor drafting and Notes, and the effect of the privileges sections to protect lawyers and corporate clients—those most involved in the drafting—but not doctors, accountants, social workers and journalists.

Mr. SMITH of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Illinois (Mr. RAILSBACK).

(Mr. RAILSBACK asked and was given permission to revise and extend his remarks.)

Mr. WYDLER. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from New York.

Mr. WYDLER. Mr. Chairman, I still do not believe that I got across to the subcommittee chairman the potential problem that we have here. The chairman of the subcommittee is going to be looking into the question of newsman's privilege, and it seems to me that when this bill comes back later for consideration on the floor, that that issue may be raised, regarding newsman's privilege, so that it is either going to have to be handled by this subcommittee or the gentleman's subcommittee, and I would like to know which subcommittee is going to handle it.

Mr. RAILSBACK. Let me say to the gentleman that the subcommittee chaired by the gentleman from Wisconsin (Mr. KASTEN-

MEIER), Subcommittee No. 3 of the House Committee on the Judiciary, has held lengthy and extended hearings not just this year, but last year as well.

And it is my understanding—and I will direct this question to my friend, and the chairman of the other subcommittee, that our subcommittee would continue to have jurisdiction over this separate issue of newsman's privilege.

I would also say to the gentleman that we have had the chance to discuss this with Albert E. Jenner, Jr., Chairman of the Advisory Committee to the Supreme Court that promulgated the rules which have now been sent to the Congress. He made it very clear to me that his advisory committee which has been working on this for 6 or 7 years purposely left out the issue of newsman's privilege as well as some other issues which they thought would be controversial. So it would be my thought that we would certainly retain our jurisdiction over such matters including newsman's privilege.

The CHAIRMAN. The time of the gentleman from Illinois has expired.

Mr. SMITH of New York. Mr. Chairman, I yield 2 additional minutes to the gentleman from Illinois.

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. RAILSBACK. I yield to the gentleman from Missouri.

Mr. HUNGATE. The question of privilege as dealt with in the proposed rules of the court says that no person can have the privilege unless it is set forth in the rules. That in effect limits the privileges that are available, and unless they are specified they are abolished.

Mr. RAILSBACK. My understanding would be that we as the Congress of the United States could at any time add or take away rules that have been promulgated by the Supreme Court. Mr. Jenner advised me of that in my telephone conversation with him.

Mr. HUNGATE. The gentleman from Illinois states the problem quite concisely. As I understand it, the subcommittee working on evidence has the option of making the statement that you do not have any privilege; it must be given to you. We can leave that situation as we find it, and then if the full committee in Congress sees fit to give that privilege, it will be there. If they do not see fit to take action, it will be left to the States. I think we can avoid the conflict.

Mr. RAILSBACK. In my remaining time let me just say there were some of us on the committee who would have preferred to have simply extended the time limit, which would have given Congress an additional period of time within which to act, but keeping a date certain such as the end of the session so that if we had acted, the rules then would have gone into effect.

The reason for that is we recognize that a very distinguished committee that recommended these rules to the Supreme Court, had been working on them for something like 6 or 7 years. We were very apprehensive that any kind of an open ended delay mechanism might mean that the rules would never emerge.

I have since joined with chairman in introducing a bill incorporating the rules——

The CHAIRMAN. The time of the gentleman has expired.

Mr. RAILSBACK. Will the gentleman yield further?

Mr. SMITH of New York. I yield to the gentleman from Illinois.

Mr. RAILSBACK. I have since that time, after having been given the assurance of both my friend, the gentleman from Missouri, and the distinguished ranking member of the subcommittee, Mr. SMITH, that they are not going to delay—rather they are going to undertake the committee hearings right away, the intent being to come out with some legislation. I think all of us have backed off from the Ervin proposal which was passed in the other body, which would have made the rules go into effect at the end of this session if we had not acted.

Mr. HUNGATE. If the gentleman will yield further, I assure him that I have no desire to be known for the nonpassage of legislation. I think there is much that is worthwhile in the proposed rules, and we would propose legislation on this in the near future.

Mr. RAILSBACK. I thank the gentleman.

Mr. SMITH of New York. Mr. Chairman, I yield 2 minutes to the gentleman from Iowa (Mr. MAYNE).

(Mr. MAYNE asked and was given permission to revise and extend his remarks.)

Mr. MAYNE. Mr. Chairman, I, too, was glad to join the gentleman from Missouri, the chairman of the subcommittee, in introducing the bill to adopt these rules. Like the gentleman from Illinois and some others, I would have preferred the version which was passed in the Senate, because I was somewhat apprehensive that we were, in the bill as reported by the committee, making it possible for congressional inaction to negate a very constructive and laborious achievement by the distinguished Advisory Committee of the Supreme Court of the United States.

I am satisfied after assurances received from the gentleman from Missouri and the gentleman from New York (Mr. SMITH) that the work of the subcommittee will proceed expeditiously, but I should like to just call to the attention of the House the makeup of this very distinguished committee which has labored for 7 years to achieve this result. It is an advisory committee made up of the leading trial lawyers of the United States practicing in the Federal courts and the leading Federal trial judges and appellate judges.

The chairman of the Advisory Committee on Rules of Evidence was Albert E. Jenner, Esquire, of the prominent law firm of Jenner and Block, Chicago, Ill.

The reporter for the committee was Prof. Edward W. Cleary of the College of Law, Arizona State University at Tempe, Ariz.

The members of the committee included: David Berger, Esquire, of Philadelphia; Robert S. Erdahl, Esquire, of Washington, D.C.; Judge Joe Ewing Estes, U.S. District Judge at Dallas, Tex.; Prof. Thomas F. Greene, Jr., of the University of Georgia, Athens, Ga.; Egbert L. Haywood, Esquire, of Durham, N.C.;

Judge Charles W. Joiner, U.S. District Judge at Detroit; Frank G. Raichle, Esquire, of Buffalo, N.Y.; Herman F. Selvin, Esquire, of Beverly Hills, Calif.; Judge Simon E. Sobeloff, U.S. Circuit Court of Appeals, Baltimore; Craig Stangenberg, Esquire, of Cleveland, Ohio; Judge Robert Van Pelt, Senior U.S. District Judge, Lincoln, Nebr.; Judge Jack B. Weinstein, U.S. District Judge, Brooklyn, N.Y.; and Edward Bennett Williams, Esquire, of Washington, D.C.

These are craftsmen who deal with the rules of evidence every day, who have long and distinguished careers in trying cases and hearing cases.

Certainly the committee and the Congress should give great respect and consideration to their work product. It is not something which we after 5 days of hearings or even 15 or 30 days of hearings can undo in good conscience, so I hope the subcommittee as we proceed, and I am a member of the subcommittee, will use some restraint in the unquestioned powers which we have. It would clearly be an abuse of the legislative process to stop this effort by inaction. I think we will press forward and I hope readily agree on those parts of the rules which are relatively noncontroversial, and the gentleman from Missouri has indicated that will be his modus operandi.

Mr. SMITH of New York. Mr. Chairman, I yield 2 minutes to a member of the subcommittee, the gentleman from Maryland (Mr. HOGAN).

(Mr. HOGAN asked and was given permission to revise and extend his remarks.)

Mr. HOGAN. Mr. Chairman, I would just like to say to our colleagues and particular the gentleman from New York (Mr. WYDLER) that we ought not today concern ourselves with the substantive matters in the rules of evidence themselves. All we are doing is asking for additional time to go ahead with the thorough analysis which they need. At another time we will have the opportunity and we all will have the opportunity to debate the merits and demerits of the proposed rules. There is substantive disagreement in the subcommittee on the rules themselves. There is no disagreement whatsoever that we need more time for review.

Mr. SMITH of New York. Mr. Chairman, I yield 3 minutes to the gentleman from California (Mr. Wiggins).

(Mr. WIGGINS asked and was given permission to revise and extend his remarks.)

Mr. WIGGINS. Mr. Chairman, I thank the gentleman from New York for yielding.

Mr. Chairman, most of the concerns I have had with this legislation have been answered by the explanations provided by the gentleman from Missouri, but I still have one concern and I would like to mention it.

Should the subcommittee get bogged down on some of the controversial matters contained in the proposed rules, would it be the intention of the subcommittee chairman to proceed expeditiously with those proposals on which agreement can be reached so that the entire package of proposed rules could not be held up because of one controversial proposal?

Mr. HUNGATE. Mr. Chairman, will the gentleman yield?

Mr. WIGGINS. I yield to the gentleman from Missouri.

Mr. HUNGATE. The gentleman seems to understand my method of operation. It would be the hope of the chairman that we would go through and find those rules on which there is no controversy or which have been endorsed by many groups. There are such rules. We would go forward with that and not let the fact that certain of the rules may be and perhaps will remain controversial prevent us from reporting out anything. I would like to see those issues resolved and reported out by the subcommittee within a reasonable time, I would hope by the 1st of July.

Mr. WIGGINS. I understand the gentleman's response to be that it his intention to report out those matters which are noncontroversial so as not to hold up the prompt adoption of such noncontroversial rules.

That removes, Mr. Chairman, the one remaining concern I have with this legislation. I thank the gentleman.

Mr. DANIELSON. Mr. Chairman, will the gentleman from California yield?

Mr. WIGGINS. I yield to the gentleman from California (Mr. DANIELSON).

(Mr. DANIELSON asked and was given permission to revise and extend his remarks.)

Mr. DANIELSON. Mr. Chairman, I rise in support of the bill as reported by the subcommittee and the full committee.

[Mr. DANIELSON further addressed the committee. His remarks will appear hereafter in the Extensions of Remarks.]

Mr. OWENS. Mr. Chairman, I want to add my support to those who advocate passage of this important bill. This is a proper manifestation of congressional prerogative and in this day of confused Federal constitutional responsibilities, I think it important that we make clear that these proposed rules will be enacted only after careful study of the Congress and under our authority.

I also want to commend the gentlewoman from New York (Miss HOLTZMAN), my colleague on the Judiciary Committee for her initiative in proposing that implementation of these rules required congressional action. She was the first to raise that point, and

it was her amendment in the Judiciary Subcommittee which provided that these rules take effect only after positive congressional action.

Mr. MOORHEAD of Pennsylvania. Mr. Chairman, I rise in support of this measure which will delay the effective date of the proposed Federal rules of evidence.

While I would not presume to speak on the merits of many of the proposed rules, I am strongly persuaded by the results of the hearings chaired by the distinguished gentleman from Missouri (Mr. HUNGATE). It would appear that not only are many of the proposals of a dubious quality on their face, but more important, are in fact substantive law and not merely procedural rules. This was clearly argued by Mr. Justice Douglas in his dissent to the Commission proposals, as it is only the Congress which can by legislation make substantive changes in the law. I stress this point because at this very time the Congress is faced with a grave challenge from the executive branch to its role as an equal partner in this Government.

I would, however, like to comment on proposed rule 509, for the prospect of this rule alone being adopted is in my opinion sufficient reason to disapprove of the entire document. Proposed rule 509 would reverse the thrust of existing law, and in effect, grant a privilege to all Government documents unless the private citizen can meet a burden of proof for disclosure. The Freedom of Information Act (5 U.S.C. 552) clearly puts the burden of proof on the Government to support an exemption from disclosure of a Government record.

Under this proposed rule, any attorney representing the Government can object to the production of a record on the grounds that disclosure of the record would be "contrary to the public interest." As we well know, the "public interest" is a vague standard subject to as many interpretations as there are persons interpreting it.

I submit that the overriding "public interest" is in the fullest possible disclosure of Government information and that any withholding should be limited to those records or documents falling within closely defined areas, and that the presumption must be that any record is public until the Government can prove otherwise.

The case law is clear on this matter:

"To insure that the disclosure requirements (under the FOI Act) are liberally construed, Congress provided for *de novo* review in the District Court whenever an agency fails to produce documents, with the agency having the burden of proving that the documents are exempt." *Sterling Drug Inc. v. FTC* 450 F 2d 698 (1971)

"The touchstone of any proceedings under the (FOI) Act must be the clear legislative intent to assure public access to all governmental records whose disclosure would not significantly harm specific governmental interests. The policy of the Act requires that the disclosure requirement be construed broadly, the exemptions narrowly." *Soucie v. David* 448 F. 2d 1067 (1971)

Both of the above cited cases, brought under the Freedom of Information Act clearly reflect the legislative mandate for maximum disclosure. It can be argued however that the proposed rule 509 is not in conflict. But, to adopt this rule would at best lead to a hopelessly ambiguous situation, for at least two overall general interpretations of the compatability or conflict of the Freedom of Information Act and the proposed rule are apparent. Assuming an individual has been denied access to an agency record and suit is instituted under the act. Such is a civil suit. The proposed rules of evidence would govern in such proceedings. Yet, it could be argued that the ultimate issue or fact in dispute is the record itself and that therefore its production is not an evidentiary question under the rules.

Of course, if a particular record was sought as part of the case to lead to the production of another record, the rule might come into play. In other words, it is possible that in a straight forward Freedom of Information suit, the Government would be faced with the burden of proof that one of the exemptions in the act was pertinent under the narrow restrictions intended in the act.

On the other hand, it might be deemed that either since the nature of the suit is one of discovery, the rules of evidence would apply, or that the rules supplement, explain or are so entwined with the exemptions in the act that they would somehow be pertinent. This, of course, may involve a complicated interpretation of statutory construction. The rules would have the force of law if not disapproved by Congress. But would they, because they are later in time than the Freedom of Information Act, modify or supersede the act which is a legislative enactment? I cannot answer this question, but the mere fact that the question is raised indicates that the rule 509, at least, has gone beyond a procedural matter and has taken on the aspects of a substantive legislative enactment.

In any case, Mr. Chairman, adoption of this rule would muddle the issue of access to information and may make the production of a government document dependent on whether or not the litigant brought a direct action under the Freedom of Information Act or whether he tried to get production as part of a suit under another statute.

I do not think that this Congress wants an issue as central to our democracy as the public's right to know to be decided on the procedural manner in which a law suit is instigated.

I therefore urge my colleagues to support this measure.

Mr. HUNGATE. Mr. Chairman, I have no further request for time.

Mr. SMITH of New York. Mr. Chairman, I have no further request for time.

The CHAIRMAN. Pursuant to the rule, the Clerk will now read the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill as an original bill for the purpose of amendment.

The Clerk read as follows:

"S. 583

"Be it enacted by the Senate and House of Representtaives of the United States of America in Congress assembled, That, notwithstanding any other provisions of law, the Rules of Evidence for United States Courts and Magistrates, the Amendments to the Federal Rules of Civil Procedure, and the Amendments to the Federal Rules of Criminal Procedure, which are embraced by the orders entered by the Supreme Court of the United States on Monday, November 20, 1972, and Monday, December 18, 1972, shall have no force or effect except to the extent, and with such amendments, as they may be expressly approved by Act of Congress."

Mr. GROSS. Mr. Chairman, I move to strike the necessary number of words.

(Mr. GROSS asked and was given permission to revise and extend his remarks.)

Mr. GROSS. Mr. Chairman, we have had an interesting debate this afternoon on the estopment of these proposed rules of evidence.

I simply suggest to the House that if and when the Committee on the Judiciary does come up with a bill proposing new rules of evidence, and I see one or two members of the Committee on Rules on the House floor, that there be a rule providing for 8 hours of general debate; that 7½ hours be allocated to the lawyers in the House; and the last 30 minutes be reserved for the nonlawyer Members.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute.

The committee amendment in the nature of a substitute was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly the Committee rose; and the Speaker having resumed the Chair, Mr. WRIGHT, Chairman of the Committee of the Whole House on the State of the Union, reported that that committee having had under consideration the bill (S. 583) to promote the separation of constitutional powers by securing to the Congress additional time in which to consider the rules of evidence for U.S. courts and magistrates, the amendments to the Federal Rules of Civil Procedure and the amendments to the Federal Rules of Criminal Procedure which the Supreme Court on November 20, 1972, ordered the Chief Justice to transmit to the Congress, pursuant to House Resolution 294, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER. Under the rule, the previous question is ordered.

The question is on the amendment.

The amendment was agreed to.

The SPEAKER. The question is on the engrossment and third reading of the bill.

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

The SPEAKER. The question is on the passage of the bill.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WYDLER. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

The vote was taken by electronic device, and there were—yeas 399, nays 1, not voting 32, as follows:

[Roll No. 48]

Yeas—399

Abdnor, Abzug, Adams, Addabbo, Alexander, Anderson, Calif., Anderson, Ill., Andrews, N.C., Andrews, N. Dak., Annunzio, Archer, Arends, Armstrong, Ashbrook, Ashley, Aspin, Baker, Barrett, Beard, Bell, Bennett, Bevill, Biester, Bingham, Blackburn, Boland, Bolling, Bowen, Brademas, Brasco, Bray, Breaux, Breckinridge, Brinkley, Brooks, Broomfield, Brotzman, Brown, Calif., Brown, Mich., Brown, Ohio, Broyhill, N.C., Broyhill, Va., Buchanan, Burgener, Burke Calif., Burke, Fla., Burke, Mass., Burleson, Tex., Burlison, Mo., Burton, Butler, Byron, Camp, Carey, N.Y., Carney, Ohio, Carter, Casey, Tex., Cederberg, Chamberlain, Chappell, Clancy, Clark, Clausen, Don H.

Clawson, Del., Clay, Cleveland, Cochran, Cohen, Collins, Conable, Conlan, Conte, Conyers, Corman, Cotter, Coughlin, Crane, Cronin, Culver, Daniel, Dan, Daniel, Robert W., Jr., Daniels, Dominick V., Danielson, Davis, Ga., Davis, S.C., Davis, Wis., de la Garza, Delaney, Dellenback, Dellums, Denholm, Dennis, Dent, Derwinski, Devine, Dickinson, Diggs, Dingell, Donohue, Dorn, Downing, Drinan, Dulski, Duncan, du Pont, Eckhardt, Edwards, Ala., Edwards, Calif., Eilberg, Erlenborn, Esch, Eshleman, Evans, Colo., Evins, Tenn., Fascell, Findley, Fish, Fisher, Floor, Flowers, Flynt, Foley, Ford, Gerald R., Ford, William D., Forsythe, Fountain.

Fraser, Frelinghuysen, Frenzel, Frey, Fuqua,, Gaydos, Giaimo, Gilman, Ginn, Goldwater, Gonzalez Goodling, Grasso, Gray, Green, Oreg., Green, Pa., Griffiths, Gross, Grover, Gubser, Gude, Gunter, Guyer, Haley, Hamilton, Hammerschmidt, Hanley, Hanna,

Hanrahan, Hansen Idaho, Hansen, Wash., Harrington, Harsha, Hastings, Hawkins, Hays, Hébert, Hechler, W. Va., Heckler, Mass., Heinz, Helstoski, Henderson, Hicks, Hillis, Hinshaw, Hogan, Holt Holtzman, Horton, Howard, Huber, Hudnut, Hungate, Hunt, Hutchinson, Ichord, Jarman, Johnson, Calif., Johnson, Pa., Jones, Ala., Jones, N.C., Jones, Okla., Jones, Tenn., Jordan.

Karth, Kastenmeier, Kazen, Keating, Kemp, Ketchum, Kluczynski, Koch, Kuykendall, Landgrebe, Landrum, Latta, Leggett, Lehman, Litton, Long, La., Long, Md., Lott, Lujan, McClory, McCloskey, McCollister McCormick, McDade, McFall, McKay, McKinney, McSpadden, Macdonald, Madden, Madigan, Mahon, Malliard, Mallary, Mann, Maraziti, Martin, Nebr., Martin, N.C., Mathis, Ga., Matsunaga, Mayne, Mazzoli, Meeds, Melcher, Metcalfe, Mezvinsky, Milford, Miller, Mills, Md., Minish, Mink, Mitchell, Md., Mitchell, N.Y., Mizell, Moakley, Mollohan, Montgomery, Moorhead, Calif., Moorhead, Pa., Morgan, Mosher, Moss, Murphy, Ill., Murphy, N.Y., Myers, Natcher, Nedzi, Nelsen, Obey, O'Brien, O'Hara.

O'Neill, Owens, Parris, Passman, Patman, Patten, Pepper, Perkins, Pettis, Peyser, Pickle, Pike, Poage, Podell, Powell, Ohio, Preyer, Price, Ill., Pritchard, Quie, Quillen, Railsback, Randall, Rangel, Regula, Reid, Reuss, Rhodes, Riegle, Rinaldo, Roberts, Robinson, Va., Robison, N.Y., Rodino, Roe, Rogers, Roncalio, Wyo., Roncallo, N.Y., Rooney, Pa., Rose, Rosenthal, Rostenkowski, Roush, Rousselot Roy, Roybal, Runnels, Ruth, Ryan, St Germain, Sandman, Sarasin, Sarbanes, Satterfield, Saylor, Scherle, Schneebeli, Schroeder, Sebelius, Seiberling, Shipley, Shoup, Shriver, Shuster, Sikes, Sisk, Skubitz, Slack, Smith, Iowa, Smith, N.Y., Snyder, Spence, Staggers.

Stanton, J. William, Stanton, James V., Stark, Steed, Steele, Steelman, Steiger, Ariz., Steiger, Wis., Stephens, Stokes, Stratton, Stuckey, Studds, Sullivan, Symington, Symms, Talcott, Taylor, Mo., Taylor, N.C., Teague, Calif., Teague, Tex., Thompson, N.J., Thomson, Wis., Thone, Thornton, Tiernan, Towell, Nev., Treen, Udall, Ullman, Van Deerlin, Vander Jagt, Vanik, Veysey, Vigorito, Waggonner, Walsh, Wampler, Ware, Whalen, White, Whitehurst, Whitten, Widnall, Wiggins, Williams, Wilson, Bob, Wilson, Charles H., Calif., Wilson, Charles, Tex., Winn, Wolff, Wright, Wyatt, Wydler, Wylie, Wyman, Yates, Yatron, Young, Fla., Young, Ga., Young, Ill., Young, S.C., Young, Tex., Zablocki, Zion, Zwach.

Nays—1

Froehlich

Not voting—32

Badillo, Bafalis, Bergland, Biaggi, Blatnik, Chisholm, Collier, Fulton, Gettys, Gibbons, Harvey.

Holifield, Hosmer, Johnson, Colo., King, Kyros, Lent, McEwen, Mathias, Calif., Michel, Mills, Ark., Minshall, Ohio.

Nichols, Nix, Price, Tex., Rarick, Rees, Rooney, N.Y., Ruppe, Stubblefield, Waldie, Young, Alaska.

So the bill was passed.

The Clerk announced the following pairs:

Mr. Rooney of New York with Mr. Hosmer.
Mr. Holifield with Mr. Bafalis.
Mr. Waldie with Mr. Mathias of California.
Mrs. Chisholm with Mr. Rarick.
Mr. Kyros with Mr. Harvey.
Mr. Nichols with Mr. Johnson of Colorado.
Mr. Gettys with Mr. Minshall of Ohio.
Mr. Fulton with Mr. Collier.
Mr. Nix with Mr. Michel.
Mr. Bergland with Mr. McEwen.
Mr. Blatnik with Mr. Lent.
Mr. Biaggi with Mr. King.
Mr. Gibbons with Mr. Price of Texas.
Mr. Stubblefield with Mr. Ruppe.
Mr. Rees with Mr. Young of Alaska.
Mr. Badillo with Mr. Mills of Arkansas.

The result of the vote was announced as above recorded.

The title was amended so as to read: "An act to promote the separation of constitutional powers by suspending the effectiveness of the rules of evidence for U.S. courts and magistrates, the amendments to the Federal Rules of Civil Procedure, and the amendments to the Federal Rules of Criminal Procedure transmitted to the Congress by the Chief Justice on February 5, 1973, until approved by act of Congress."

A motion to reconsider was laid on the table.

History and Status of S. 583: A Bill To Insure Congressional Review of the Proposed Rules of Evidence Before They Take Effect as Law

On March 14, 1973, by a vote of 399–1, the House adopted an amended version of S. 583, a bill to delay the proposed Rules of Evidence until Congress is able to consider carefully the impact of these rules on the administration of justice in the federal courts. This bill has been sent back to the Senate and is now at the desk. As amended, S. 583 requires congressional approval of these rules before they can take effect as law.

The Senate adopted S. 583 by voice vote and without opposition on February 7, 1973. Following the Senate's action, a House Judiciary Subcommittee, chaired by Congressman William Hungate, held extensive hearings on the rules and on the advisability of delaying their implementation.*

Subsequently, the House Judiciary Committee reported out S. 583 with amendments. As author of the original version of S. 583, Senator Ervin intends early next week to move that the Senate concur in the House amendments to S. 583.

Attached is a compilation of extracts from several statements presented during the House Judiciary Subcommittee hearings in February, 1973.

Excerpts From Testimony Presented Before the House Judiciary Subcommittee, Chaired by Congressman William Hungate, in February 1973 Concerning the Proposed Rules of Evidence

Honorable Arthur J. Goldberg, Former Justice, Supreme Court of the United States:

"To my mind, some of the proposed Rules extend beyond mere matters of procedure and represent real changes in the substantive rights and duties of persons throughout the country."

"While the Court may have some inherent power of its own and some concurrent power with Congress over matters of procedure, the Constitution vests in Congress the power to initiate and enact legislation concerning the rights and duties of citizens of the United States subject, of course, to constitutional limitations."

James F. Schaeffer, Chairman, The Federal Evidence and Procedure Committee on the Association of Trial Lawyers of America:

"It is the position of the Association of Trial Lawyers of America Committee on Federal Evidence and Procedure that legislation should be enacted by the Congress deferring the effective date of these rules until such time as Congress, the legal profession, the judiciary, both state and federal throughout the country, and all other interested citizens have been given full opportunity to know and understand the true extent to which these proposed rules affect the substantive rights of individual citizens involved in litigation in the Courts of the United States."

Honorable Henry J. Friendly, Chief Judge, U.S. Court of Appeals for the Second Circuit:

"My first objection to the proposed Rules is that there is no need for them. Someone once said that, in legal matters, when it is not necessary to do anything, it is necessary to do nothing. We know we are now having almost no serious problems with respect to evidence; we cannot tell how many the proposed Rules will bring."

"My second objection is that prescription of the Rules will stimulate appeals and increase reversals on evidentiary rulings."

"My third and most serious objection to the proposed Rules is their application to a federal system. The overwhelming bulk of civil litigation is conducted in the state courts, and the states have developed evidentiary rules for that purpose. Some of these, particularly the rules with respect to privilege, affect conduct of citizens outside the courtroom. I find it offensive for the federal government to take action that will deprive conduct such as communications between physician and patient, or husband and wife, of protection the state has afforded, particularly when the action in the federal court is to enforce a state-created right."

Honorable Robert W. Warren, Attorney General, State of Wisconsin; President-elect of the National Association of Attorneys-General:

"It is my position, . . . that the effect of Chapter V (dealing with privileges) is to diminish substantially the state's ability to protect the confidentiality of its records and files and to subject these to wide ranging disclosure, and that these rules restrict the power of federal judges before whom proceedings are pending to grant protective orders concerning such state records and files. It is my position that the present rules, as constituted, pose a severe threat to the proper administration of state government, of state governmental agencies, and in particular to the proper function of state law enforcement agencies."

Dr. Thomas G. Dorrity, M.D., Immediate Past President of the Association of American Physicians and Surgeons:

"We urge that Congress take action before July 1, 1973, to keep the new Rules of Evidence proposed by the Supreme Court from becoming effective until Congress can apply adequate consideration for them legislatively.

"S. 583 that passed the United States Senate February 7, 1973, staying the rules until the end of this session is a step in the right direction. But it should be amended so the proposed rules cannot go into effect until Congress acts. Congress should take this session, and the next if necessary, to do a thoroughly responsible job."

"Our concern is that the proposal expressly states, "The rules contain no provision for a general physician-patient privilege" (Advisory note, p. 56). This action could destroy the hard-won gains in two-thirds of the states which in varying degrees, legislatively recognized the patient's right to privacy, confidentiality, and privilege."

Testimony of the Honorable Arthur J. Goldberg, Former Justice, Supreme Court of the United States, on the Proposed Rules of Evidence for U.S. Courts and Magistrates

I consider it a privilege, Mr. Chairman and members of the Committee, to appear today in response to your invitation to testify on a matter that so vitally concerns the Rule of Law.

As a member of the Supreme Court, I joined a majority of my brethren in 1973 in approving the wholesale amendments of the Federal Rules of Civil Procedure and in authorizing the Chief Justice to transmit them to the Congress, because I regarded these amendments to be essentially "housekeeping" rules. See Order of January 21, 1973, 374 U.S. 865.

I concurred in approving the amendments to the Federal Rules of Civil Procedure in

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*Unless Congress enacts legislation to delay these rules, they will have the force and effect of law ninety days from the date of their submission to Congress. (18 U.S.C. 3402, 3771, 3772; 28 U.S.C. 2072, 2075). They were submitted to Congress on February 5, 1973.

1963 on two important assumptions: first, that the Congress retains authority to veto or amend Rules approved by the Supreme Court; and second, that the Rules extend only to matters of procedure and practice and not to matters of substance.

With respect to the first assumption, Congress and the Supreme Court have both construed the Enabling Acts, 18 U.S.C. § 3771 and 28 U.S.C. §§ 2072, 2075 to mean that Congress has the power to amend or veto rules transmitted by the Chief Justice. In considering the first Rules of Federal Procedure of 1938, the Senate Judiciary Committee expressed the view that Congress had the power to postpone the effective date of the rules. S. Rep. No. 1603 on S.J. Res. No. 281, 75th Cong., 3rd Sess. Similarly, the House Judiciary Committee, in recommending that the Rules "be permitted to take effect," stated that Congress had the power to prevent them from becoming effective. H. Rep. No. 2743, 75th Cong., 3rd Sess. When Senator Joseph Tydings introduced legislation in 1966 to extend rules making authority to appellate procedure and to reenact existing Enabling Acts, he emphasized that Congress would retain a veto power over rules approved by the Supreme Court:

"Of course, before they became the law, any proposed appellate rules promulgated under the bill will have to be referred to the Congress, which will have the same veto power with respect to civil appellate rules as it now has with respect to the existing Federal Rules of Criminal and Civil Procedure." Cong. Rec. 8588, 89th Cong., 2nd Sess. (April 20, 1966).

In approving the Appellate Rules Enabling Act and the recodification of existing Rules Enabling Acts, the Senate Judiciary Committee asserted that "Congress [could] enact a law within the 90-day period to prevent a proposed rule from taking effect." S. Rep. No. 1406, p. 2, 89th Cong., 2nd Sess. Finally, the Supreme Court itself has construed the Rules Enabling Act of 1934, now codified at 28 U.S.C. Section 2072, to permit Congress to veto rules before they become effective:

"[In] accordance with an act, the rules were submitted to the Congress so that that body might examine them and veto their going into effect if contrary to the policy of the legislature," *Sibbach* v. *Wilson*, 312 U.S. 1 (1941).

In short, Congress clearly has the authority to either amend or veto the proposed Rules of Evidence within the 90 days provided by statute or to extend this time.

My misgivings about the proposed Rules of Evidence concern the second assumption, namely that the Rules extend only to matters of practice and procedure. To my mind, some of the proposed Rules extend beyond mere matters of procedure and represent real changes in the substantive rights and duties of persons throughout the country.

The authority of the Supreme Court to prescribe rules for the federal courts is limited by statute. The Rules Enabling Acts by which the Court approved the proposed Rules of Evidence on November 20, 1972, extend only to "practice and procedure" (28 U.S.C. §§ 2072, 2075) to "Rules of pleading, practice, and procedure" (18 U.S.C. § 3771), and to "rules of practice and procedure" (18 U.S.C. § 3772). The original Act of 1934 makes explicit that "such rules shall not abridge, enlarge or modify any substantive right," a limitation contained in subsequent acts by implication. In short, the Supreme Court has no delegated power to approve Rules of Evidence in so far as they concern matters of "substance."

There are Constitutional limitations, too, on the power of the Supreme Court to enact rules of substantive law to govern proceedings in federal court. While the Court may have some inherent power of its own and some concurrent power with Congress over matters of procedure, the Constitution vests in Congress the power to initiate and enact legislation concerning the rights and duties of citizens of the United States subject, of course, to constitutional limitations. I disagreed with Justices Hugo Black and William O. Douglas in 1963 that the Rules of Evidence were matters of substantive law. In this case, on the other hand, where proposed Rules of Evidence do represent changes in substantive law I share their conclusion that such changes must be initiated and enacted by Congress.

In this context, I propose to discuss the treatment of "privileges" by the proposed rules. The rules define nine separate privileges: privilege for information given to the state in confidence; lawyer-client privilege, psychotherapist-patient privilege, husband-wife privilege, clergyman privilege, suffrage privilege, trade secrets, state secrets, and informer privilege. Some are abridged, some are enlarged, and some are denied. A notable omission is the newsman's privilege. Except for privileges protected by the Constitution and Acts of Congress, the Rules abolish all other privileges including those separately protected by state law.

It was generally assumed at the time of the Rules Enabling Act of 1934 that the delegation did not include the authority to promulgate any rules of evidence at all. See, *e.g.*, Wickes, *The New Rule-Making Power of the United States Supreme Court*, 13 Tex. L. Rev. 1 (1934*). Accordingly, the original Advisory Committee on Civil Rules expressed its misgivings about drafting rules of evidence:

"There is some difference in opinion in the Committee as to the extent to which the statute authorizes the Court to make rules dealing with evidence. We have touched the subject as lightly as possible." *Preliminary Draft of Rules and Civil Procedure*, May 1936. Foreword p. XVII.

The rule eventually adopted, Rule 43, touches only lightly on questions of admissibility and makes no reference whatsoever to rules of privilege.

When the Judicial Conference proposed in 1958 to draft Rules of Evidence, the Chief Justice of the United States felt obliged to convene a special committee to determine whether or not the Supreme Court had authority in that area. See *Preliminary Study of the Admissibility and Feasibility of Developing Uniform Rules of Evidence for the Federal Courts*, 30 F.R.D. 73 (1961). Even a few years ago, leading commentators who supported the effort to draft new Rules of Evidence nonetheless urged the Advisory Committee to avoid rules concerning privilege. See Degnan, *Federal Evidence Reform*, 76 Harv. L. Rev. 275 (1962). See also Joiner, *Uniform Rules of Evidence for the Federal Courts*, 20 F.R.D. 429 (1957):

"In the last analysis, however, the Court in determining its power to promulgate any rule must examine the policy behind the proposed rule to determine whether or not the purpose and effect of the rule involves the ordinary dispatch of judicial business [procedure] or is predicated on another broader policy of the state [substance]. . . . In most instances, the matters of evidence . . . involve only matters of practice and procedure, not of substance, or in other words, are only matters that are involved in the orderly dispatch of judicial business. Only *privileges*, burdens of proof, and conclusive presumptions may involve more or should be classified as substance and thus may be beyond the rule making power."

In short, even many of those who believe the Court should approve a code of evidence nonetheless doubt that its authority extends to rules of privilege.

The Supreme Court has defined the distinction between procedure and substance under the Rules Enabling Act as follows:

"The test must be whether a rule really regulates procedure—the judicial process for enforcing rights and duties recognized by substantive law and for justly administering remedy and redress for disregard or infraction of them." *Sibbach v. Wilson and Co.*, 312 U.S. 1, 14 (1942).

Yet that definition hardly answers the question. For one thing, we know, from the fact that it has already approved them, that the Supreme Court, at least in the present posture, considers rules of privilege to be within its grant of power. Since the governing statute remits the question to Congress for ultimate resolution, I am sure all would agree that the best body to judge what Congress intended by the statute, and what authority Congress intended to delegate to the Supreme Court, is the Congress itself.

Even if Congress determines that the Rules Enabling Act includes rules of privilege, it still faces the constitutional implications of *Erie Railroad Co. v. Tompkins*, 304 U.S. 64 (1938). This case and its progeny stand for the Constitutional principle that the federal courts in diversity cases have no power to create and apply substantive federal law in conflict with the laws of the states where the courts preside. On the Erie question the commentators are emphatic. They almost uniformly believe that rules of privilege are "substantive" within the meaning of the *Erie* doctrine and, therefore, must yield to state law in diversity suits.[1] The Federal Courts that have studied the question have come to the same conclusion.[2]

Although the standards differ, the reasons why rules of privilege are "substantive" both for the Rules Enabling Act and for the *Erie* doctrine are similar. Most rules of evidence, including the admission and exclusion of evidence, examination of witnesses, judicial notice, competency of witnesses and relevance, are designed to facilitate the fact-finding process. Rules of privilege, on the other hand, are designed to protect independent substantive interests:

"Privileges for confidential communications are created because the state thinks a particular relationship—attorney-client, husband-wife, journalist-source—is sufficiently important that it should be fostered by preserving confidentiality in the relationship even at the cost of losing evidence that would help to determine the truth in later litigation. Thus privilege differs from most rules of evidence, which are intended to facilitate getting at the truth of a matter. . . . Rules of privilege are not mere housekeeping rules." Wright & Miller, *Federal Practice and Procedure*, Civil § 2408 at 334 (1971)

To state the matter somewhat differently, most rules of evidence are procedural means toward the end of determing the truth. In the case of privileges, on the other hand, the substantive end is the privilege itself. They exist for reasons having little to do with the trial of causes. As another commentator has put it:

"Privileges are used to encourage patients to go to doctors, to encourage clients to be candid with lawyers and to promote family solidarity by making secure the confidential communications between husband and wife.

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[1] See, *e.g.*, Korn, *Continuing of Effect of Courts*, 48 F.R.D. 65 (1969); Weinstein, *The State Rules of Evidence in the Federal Uniformity-Conformity Dilemma Facing Draftsmen of Federal Rules of Evidence*, 69 Colum. L. Rev. 353 (1969); Degnan, *Federal Evidence Reform*, 76 Harv. L. Rev. 275, 301 (1962); Louisell, *Confidentiality, Conformity, and Confusion: Privileges In Federal Courts Today*, 31 Tul. L. Rev. 101, 117–24 (1956); Weinstein, *Recognition in the United States of the Privilege of Another Jurisdiction*, 56 Colum. L. Rev. 535, 545–47 (1956).

[2] *Hardy v. Riser*, 309 F. Supp. 1234 (N. D. Miss. 1970); *Republic Gear Co., v. Borg Warner Corp.*, 381 F. 2d, 551 (2d Cir. 1967); *Palmer v. Fisher*, 228 F. 2d. 603 (7th Cir. 1955) *cert. den.*, 351 U.S. 965 (1956).

Privileges have a wide application beyond court trials." Ladd, *Uniform Evidence Rules in the Federal Courts*, 49 Va. L. Rev. 692, 714 (1963).

One can hardly hope to find a better definition of "substance." Rules of privilege lie at the core of our rights and duties.

The so-called "state secrets" privilege of proposed Rule 509 is a good example. The Rule is nothing less than a secrecy code of the various kinds of information that the federal government can withhold from the public. It creates two kinds of secrets: "secrets of state," which cannot even be disclosed to a federal judge in the privacy of his chambers; and "official information," whose disclosure would be "contrary to the public interest."

Rule 509 extends far beyond the rules of "procedure" envisaged by the Rules Enabling Acts. It represents a secrecy statute as broad as the "Freedom of Information Act," 5 U.S.C. § 552, that Congress labored so long and hard to enact. In many ways, it withholds even more information than Congress intended to protect through the Freedom of Information Act. For example, while the Freedom of Information Act protects only matters that have been classified secret by executive order, Rule 509(a)(1) protects any secret "relating to the national defense or the international relations of the United States," whether or not it has been classified. Furthermore, while the Freedom of Information Act protects secrets only if they are specifically exempt from disclosure, Rule 509(b) enables the government to withhold not only government secrets themselves but any information that can be said to carry a "reasonable likelihood of danger" that it will result in disclosure of government secrets. In other words, Rule 509 withholds from the public information that by itself is not even secret. In short, Rule 509 which represents as extensive a substantive law as any in the United States Code, cannot be dismissed as procedure. While Congress has an interest in protecting government secrets, it must legislate in that area directly. It has not delegated, and cannot delegate that responsibility to the Judiciary.

In conclusion, and to illustrate my point, I refer to the so-called "newsman's privilege" for confidential communications between a newsman and his sources. Congress is now considering legislation to create such an evidentiary privilege. It is a matter of the greatest interest and one that everyone agrees is up to the Congress. Indeed, in an opinion last June rejecting a constitutional basis for the newsman's privilege, the Supreme Court specifically stated that the matter was one for Congress:

"At the federal level, Congress has freedom to determine whether a statutory newsman's privilege is necessary and desirable . . ." *Branzburg* v. *Hayes*, 408 U.S. 665, 706 (1972).

I was one who believed that the newsman's privilege was protected by the First Amendment. But the Court has rules otherwise. The logical implication from its ruling, it seems to me, is that rules of privilege, whether for newsmen or anyone else, are matters of substantive law and, therefore, not subject to be abridged or enlarged by the Proposed Rules of Evidence.

Finally, Mr. Chairman, I need scarcely add that I hold the members of the Advisory Committee, the Standing Committee and, of course, the members of the Supreme Court itself, in the highest regard, respect and esteem. My differences with them concerning the Proposed Rules of Evidence relate to matters of principle and should not in any way be regarded as reflecting upon the competence and dedication of those involved in the preparation and approval of the Rules.

In conclusion, I wish to express my appreciation to this Committee for affording me the opportunity to state my views on this important subject;

STATEMENT OF HENRY J. FRIENDLY, CHIEF JUDGE, U.S. COURT OF APPEALS FOR THE SECOND CIRCUIT, ON THE PROPOSED FEDERAL RULES OF EVIDENCE

My name is Henry J. Friendly. I was appointed to the United States Court of Appeals for the Second Circuit in 1959 and became Chief Judge two years ago. I speak here only for myself; I do not know to what extent other members of our court share my views.

I appear at your chairman's specific request and with some reluctance. The reluctance is born of my deep respect for many who favor the Proposed Rules, notably the Chief Justice and Judge Albert B. Maris, who has served, with selflessness and distinction, for so many years as Chairman of the Standing Committee on Rules of Practice and Procedure, and my appreciation for the devoted service of the members of the Advisory Committee on Rules of Evidence and its Reporter over the past eight years. Three years ago, after the first public draft of the Proposed Rules was circulated, I became convinced that the entire project was ill-conceived, and expressed my views in a letter to the Standing Committee, which is already in the record before you. When the Judicial Conference of the United States first forwarded the Proposed Rules to the Supreme Court in October, 1970, I objected to the Court, both for the substantive reasons previously stated in my letter to the Standing Committee and because the Judicial Conference had approved five single-spaced pages of changes made by the Advisory and Standing Committees (in many cases without having drafted the language), which had never been disclosed to the bench and the bar and to which the Conference could not have given meaningful consideration. Having become a member of the Conference after publication of the Rules as thus revised, I voiced my opposition at its meeting in the fall of 1971, where I had the dubious distinction of being the only member to speak or vote against their transmittal to the Supreme Court. Again I felt compelled to write the Justices and thought I had then fulfilled my obligations as a federal judge. However, I cannot properly refuse to respond to a request by a concerned committee of the Congress of the United States.

Although I disagree with many details of the Proposed Rules, I should like my remarks to be considered mainly as illustrating the undesirability of having a Federal Code of Evidence in any form. My objections are fundamental. I therefore shall not devote any time to discussing whether the Proposed Rules are within the Rules Enabling Acts, 28 U.S.C. § 2072 and 18 U.S.C. § 3771, although I share the doubts Mr. Justice Douglas has voiced on that subject. If the country should have a federal evidence code, Congress could broaden the enabling acts or, much less desirably, enact a code of its own. I shall not even say much about whether some of the provisions, notably those which direct federal courts to disregard state-created privileges even in actions for the enforcement of state-created rights, are not unconstitutional under *Erie R.R. Co.* v. *Tompkins*, 304 U.S. 64, 77–80 (1938), although a strong case can be made to that effect. With the benefit of hindsight, the error lay in the too ready acceptance, without opportunity for full debate, of the preliminary report in 1961 that Federal Rules of Evidence should be drafted. Once the Advisory Committee on Rules of Evidence was constituted and went to work, the project acquired its own momentum; the questions put to the profession were not *whether* there should be such Rules but *what* the Rules should be. It is therefore gratifying that this Committee is addressing itself to basic questions and not merely to details.

My first objection to the Proposed Rules is that there is no need for them. Someone once said that, in legal matters, when it is not necessary to do anything, it is necessary to do nothing. I find that a profoundly wise remark. We know we are now having almost no serious problems with respect to evidence; we cannot tell how many the Proposed Rules will bring.

I have seen no indication that the federal courts or lawyers practicing in them have encountered difficulty in working under Rule 43 of Federal Civil Procedure and Rule 26 of Federal Criminal Procedure. The impetus for a federal evidence code came in the first instance from academic dissatisfaction with the second sentence of Rule 43(a):

"All evidence shall be admitted which is admissible under the statutes of the United States, *or under the rules of evidence heretofore applied in the courts of the United States on the hearing of suits in equity*, or under the rules of evidence applied in the courts of general jurisdiction of the state in which the United States court is held."

The dissatisfaction was particularly with the second clause, which I have underscored, since no one really knew what rules of evidence federal courts had been applying in suits in equity, and antiquarian research into the few pre-1938 precedents seemed a poor pursuit for the 1960's. But the provision has caused much less trouble in the courts than in academe. As Professor Moore said in his treatise, "the rule is working better than the commentators had expected." 5 Federal Practice ¶43.02 at 1306. In twelve years on a busy court of appeals I can recall only one case involving state created rights where we decided a question of evidence differently than the state courts would have done. Although I concurred in that decision, by a divided court, *Hope* v. *Hearst Publishing Co.*, 294 F. 2d 681 (2d Cir. 1961), *cert. denied*, 368 U.S. 956 (1962), I think that, whether or not the result was required by Rule 43(a), it was unjust to allow a diversity plaintiff to win a libel suit which, because of a different rule of evidence, he would probably have lost in a New York court. If conceptual difficulties are deemed sufficiently serious to require a revision of Rule 43(a), this could take the form of requiring that in diversity cases the federal courts shall follow the state law of evidence but that in federal question cases they shall be governed, in the simple but moving language of Rule 26 of Federal Criminal Procedure, "except when an act of Congress or these rules otherwise provide, by the principles of the common law as they may be interpreted by the courts of the United States in the light of reason and experience." I would add to this that even in such cases state-created privileges should be respected unless a strong federal interest otherwise requires. Obviously such an amendment is suggestive only; scholars could doubtless devise something better.

Rather than getting bogged down in such simple amendments of Rules 43 and 26, let me reiterate my point that there are no empirical data showing the need for doing anything. I understand your Committee has been told that, with the increased mobility of the bar, it must be difficult for a lawyer in a civil case in a federal court to be obliged to acquaint himself with the evidence law of the state where the case is being tried. Apart from the fact that the out-of-state lawyer trying a type of civil case where evidence problems are likely to arise will usually have an in-state lawyer associated with him, the state common law rules are not all that hard to discover, and state statutory rules are even more readily ascertained. In any event there has been no cry of protest of this score from a profession not notable for its reluctance to express grievances.

Still one may fairly ask what harm there is in a code of evidence, provided it is a good code. My first answer is that evidence is not the kind of subject that lends itself to

codification. It is perculiarly a subject for the common law system of judicial development by examination of the actual facts in each case in an adversary setting. Codes have been properly adopted in areas where certainty is needed—criminal and civil procedure, criminal law, and the distribution of decedents' estates. But there is little precedent for codes of evidence. When I last looked into the matter, only three of the fifty states had such codes. The law of evidence has grown during past generations with help from many sources; the greatest law treatise in the English language, now happily being revised; other writings by scholars, including the Reporter; the illumination afforded by attempts at codification—the American Law Institute's Model Code, the Commissioners' Uniform Rules, and now these Proposed Rules; and occasional prods from legislatures such as the business records statute, 28 U.S.C. § 1732, and its state counterparts. The Proposed Rules would tend to freeze the federal law of evidence, except at the intervals, necessarily long, when the Rules were revised. To be sure, Rule 102 instructs the courts to "construe" the Rules so as to promote "growth and development of the law of evidence." But there is not much room for "growth and development" when a judge is firmly bound by 161 pages of rules and commentary.

My second objection is that prescription of the Rules will stimulate appeals and increase reversals on evidentiary rulings. Few lawyers will now appeal a civil case only on such a ground; they know that if the appellate court believes the result was just and there were no other errors, it will "find a way" to sustain the trial judge. It will be immeasurably harder for an appellate court to reach such sensible results if the trial court has violated a black letter rule prescribed by the Supreme Court under authority from the Congress and the appellate court's only recourse is the limited doctrine of harmless error. What the federal courts of appeals need least at this time is an increase in business, especially in this sort of business. If it be said in reply that the Proposed Rules should decrease appeals because of their clarity, my rejoinder is that they are not and, in the nature of things, cannot be that clear. If you wish an example, I invite your attention to Article III on Presumptions. I cannot believe the Chairman of the Advisory Committee was serious if he said, as he has been quoted as saying, that this little book will enable a lawyer quickly to answer every evidence problem that can arise in a federal trial. If it were all that simple, one wonders why the Reporter has just brought out an 864 page revised edition of Professor McCormick's valuable treatise.

My third and most serious objection to the Proposed Rules is their application to a federal system. The overwhelmnig bulk of civil litigation is conducted in the state courts, and the states have developed evidentiary rules for that purpose. Some of these, particularly the rules with respect to privilege, affect conduct of citizens outside the courtroom. I find it offensive for the federal government to take action that will deprive conduct such as communications between physician and patient, or husband and wife, of protection the state has afforded, particularly when the action in the federal court is to enforce a state-created right. I feel much the same way about a state rule such as the statutes in force in New York and many other states which prohibit a party from testifying with respect to a transaction with another now deceased. Recognizing the opposing policy considerations, I would have voted to repeal the New York statute if I had been a member of the New York Legislature when the New York Civil Practice Act was last revised. But the Legislature, after thorough consideration, decided otherwise. Why should a Pennsylvanian be able to avoid this policy decision by suing the estate of a New Yorker on an oral contract in a New York federal court? Apart from the inequity of the result, this and other differences between state and federal rules will revive the forum shopping the *Erie* decision meant to end. Like the general law there abrogated, the Proposed Rules would, in Justice Brandeis' words, "render impossible equal protection of the law." I do not see these differences speedily disappearing by the states' adopting the Proposed Rules, as many adopted the Federal Rules of Civil Procedure, nor for reasons indicated above and below, would I think this desirable. It would require a much stronger showing of need than anything heretofore advanced to permit me to countenance this kind of injustice with equanimity.

Turning from these general observations to detailed criticism of the Proposed Rules, I should like to reemphasize that I cite these as illustrations of the harm that adoption of the Rules would cause. Curing a few of what seem to me to be defects would not overcome the basic objections to adoption of the Proposed Rules. Furthermore these criticisms are meant to be illustrative rather than exhaustive.

Rule 404(b)—Character Evidence. Does adopt the "federal rule" allowing evidence of other crimes *except* when offered only to show the defendant is a bad man, or the rule requiring that these crimes show some particular trait relevant to the charge? The rule seems to walk both sides of the street. It will provide a bountiful source of appeals and possible reversals on a subject where the federal law is now reasonably clear.

Rule 501—Several states have passed statutes recognizing some form of newsmen's privilege. Under this rule the privilege would be recognized in federal court. But a privilege for confidential communications is of little use unless it is recognized everywhere.

Similarly, if a state recognizes an accountant-client privilege, what reason is there for a federal court not to recognize it, and thereby destroy its general value, at least in an action based on state created rights? States may decide to establish privileges for other relationships. Why should these be unavailable in a federal action based on a state created right?

Rule 504—Psychotherapist-Patient Privilege. Substitution of this for the traditional physician-patient privilege is a striking example of the Committee's inability to resist making changes where none are needed. If a state recognizes a physician-patient privilege, why should not its policy prevail, at least in an action to enforce a state created right? What value is there in such a privilege available to one set of courts but not in another? On the other hand, if a state refuses to recognize a privilege for communications with a psychotherapist, or with one who is not a physician, what great federal interest requires its recognition in a federal court?

Rule 509(c)—The exemptions of the Freedom of Information Act are not necessarily the proper measure of the bounds of what may properly be withheld by the Government at a trial.

Rule 510(c)(2)—Informers (at trial on the merits). I consider this a broader rule than my reading of the *Roviaro* decision, 353 U.S. 53, particularly as this was explicated in *McCray* v. *Illinois*, 386 U.S. 300, 311–12. Here is another subject where the courts will do much better on a case-by-case basis than under a rigid rule.

Rule 510(c)(3)—Informers (on suppression hearings). This again goes beyond the case law. See, *e.g.*, *United States* v. *Tucker*, 380 F.2d 206 (2d Cir. 1967). To say that this is "consistent" with *McCray* v. *Illinois, supra*, is true only in the sense that *McCray* does not *forbid* a rule demanding greater disclosure than it held to be constitutionally required.

Rule 601—Competency. As indicated, I don't like Dead Man's Acts any better than the Advisory Committee. But many states do. New York reenacted its rule, after full consideration, only a few years ago. What justification is there for a different rule in a diversity case in New York?

Rule 606(b)—Inquiry into Validity of Verdict or Indictment. Here is a perfect example of a situation better left to case-by-case development than to rule-making. As I read the rule as proposed, it would allow a juror to testify concerning any remarks by another juror that display any sentiment not derived from evidence of record. Courts should not have to spend time on this in the absence of a preliminary showing that, if the allegations are true, the permeation of the jury room by extraneous influences was so serious as to require upsetting the verdict.

Rule 609(b)—Prior Convictions. Why an arbitrary 10 year limit for the use of convictions in attacking the credibility of a witness? I fully agree it is wrong to rake up some 30 year old—or even a 5 year old—conviction of a minor crime. But why ban an 11 year old conviction of an adult of such serious offenses as murder, espionage, arson, rape, embezzlement, and even perjury? It is much better to leave such matters to the good sense of judges rather than impose an arbitrary statute of limitations.

Art. VIII—Hearsay. Of all subjects that are unsuited to codification, even for a state, the hearsay rule would rank among the highest. And, for reasons already stated, the last place for codification would be the federal system so long as it deals with state created rights. Detailed examination of the rules propounded by the Committee would demonstrate both these propositions. I will name only a few of my objections to the rules in this Article:

Rule 801(d)(1)—Any prior inconsistent statement of a witness, even an oral one, is made admissable as affirmative evidence. This includes a case where, for example, a witness for a criminal defendant denies that he has any knowledge of an event or ever made a statement about it, but a government agent swears that he has made an oral statement inculpating the defendant. This makes cross-examination a farce. The rule goes far beyond any decided case dealing with federal crimes or any consideration of sound policy. The rule is equally indefensible in civil cases. While it may be constitutional under *California* v. *Green*, 399 U.S. 149 (1970), it is basically inconsistent with the spirit of the Supreme Court's effort to put real meaning into the confrontation clause of the Sixth Amendment.

Rule 803(6)—Although obscurely worded, this seeems to adopt the most extreme view of the business records rule. Any hearsay statement is admissible if it has been compiled by someone "in the course of a regularly conducted activity by the latter," unless the opponent can somehow show lack of trustworthiness.

Rule 803(24)—In contrast to the closed door aproach to privilege, this opens the door to all kinds of hearsay statements, with no standard save "comparable circumstantial guarantees of trustworthiness" being offered. This is the Chancellor's foot with a vengeance.

Rule 804(b)(4)—Here the Committee attempts to deal with the long controverted problem of statements against penal interest. Admissibility of such statements is one of those things that has looked good to many people in theory but appears quite differently when seen in the context of experience. As originally proposed, the rule would have admitted the declaration of a person already serving a long prison sentence that he, rather than the accused, committed the crime. At the last moment the Committee qualified this so that such a declaration "is not admissible unless corroborated." I have no idea what this means; I should suppose that any evidence of the defendant's innocence or verification of any significant as-

pect of the exculpatory statement would constitute "corroboration" in the ordinary sense of that word. The comment does not help much when it says, p. 137, that the requirement "should be construed in such a manner as to effectuate its purpose of circumventing fabrication." The best way to effectuate this purpose is to leave the law as it is.

In summary, almost nothing will be gained by adopting the rules either as they have been proposed or as they might be amended, and a good deal can be lost. The existing system has caused no sigificant trouble to practitioners and judges in the federal courts has given the judges the flexibility needed to effect equity and justice, and has largely avoided the evil of forum-shopping in diversity cases. Prescription of a code of evidence would increase, not reduce, the burdens on federal judges and, in some cases, would produce gross inequities and unnecessary conflict with state policies. I therefore hope that, despite the labors that have gone into them, the Proposed Rules will be placed on the bookshelves along with earlier attempts at codification by equally able and high-minded lawyers.

TESTIMONY OF JAMES F. SCHAEFFER, CHAIRMAN, THE FEDERAL EVIDENCE AND PROCEDURE COMMITTEE OF THE ASSOCIATION OF TRIAL LAWYERS OF AMERICA

Mr. Chairman and members of the committee, it is a privilege to have the opportunity to respond to your invitation to offer testimony in reference to a decisional process of extreme importance to our system of administering justice in the United States.

For your information, at the direction of the Honorable J. D. Lee, President, I am speaking here as Chairman of the Committee on Federal Evidence and Procedure of the Association of Trial Lawyers of America. This organization, formerly known as the American Trial Lawyers Association, is the second largest bar association in the world, having in excess of 25,000 members throughout these United States. Our organization is composed of active trial lawyers as distinguished from office practitioners. We are the lawyers who regularly find ourselves as advocates for our clients in open court striving for the ends of justice in an arena which must remain the fountainhead of fair play. Rules of evidence guide us onward. Their wisdom must remain inviolate.

An effort is here being made not to make this testimony redundant. We have been supplied heretofore with copies of the testimony of the Honorable Arthur J. Goldberg. His comments are applauded and their deepest consideration is urged upon this committee.

As we understand the procedural situation at hand, the advisory committee has reported the proposed rules of evidence to the Supreme Court which has in turn reported the rules to the Congress, and, unless legislation is enacted, amending or deferring the effective date, the rules will become effective on July 1, 1973.

It is the position of the Association of Trial Lawyers of America Committee on Federal Evidence and Procedure that legislation should be enacted by the Congress deferring the effective date of these rules until such time as Congress, the legal profession, the judiciary both state and federal throughout the country, and all other interested citizens have been given full opportunity to know and understand the true extent to which these proposed rules affect the substantive rights of individual citizens involved in litigation in the Courts of the United States.

There are two major positions from which to view these rules in testing the wisdom of their becoming law. The first point for consideration turns on whether or not the original act empowering the Supreme Court to prescribe rules of procedure includes the power to prescribe rules of evidence. The second point of view would extend to the substance of the proposed rules with the aim of determining whether they are just rules and should be adopted on their merits. From both positions, we view the matter in the negative.

The often cited 1934 act empowering the Supreme Court to prescribe rules provided the Supreme Court would have the power to prescribe "the forms of process, writs, pleadings, and motions, and the practice and procedure in civil actions at law." The enabling legislation further provided "said rules shall neither abridge, enlarge, nor modify the substantive rights of any litigant." As previously stated by former Justice Goldberg, this is a limitation contained in subsequent acts by implication.

I would like to take this opportunity first to discuss the question of the authority of the Court to propose these rules in the light of the statutory language.

An obvious modification of "the substantive rights of" . . . litigants in the realm of privilege has already been developed in the testimony of former Supreme Court Justice Goldberg. An outright concession within the framework of the rules themselves that they undertake to modify substantive rights of ligitigants is made crystal clear in Article 3 relating to presumptions with particular reference to Rule 301 and Rules 302.

Rule 301 reads as follows:

"In all cases not otherwise provided for by Act of Congress or by these rules, a presumption imposes on the parties against whom it is directed, the burden of proving that the non-existence of the presumed fact is more probable than its existence."

The question presented is, does the foregoing rule affect substantive rights of litigants? To answer this question, one would have to analyze the various presumptions at law which have legal effect when they come into play during the trial of lawsuits. An example of such a presumption is the presumption created in the well-known legal doctrine "res ipsa loquitur" (the thing speaks for itself).

Under this doctrine, where the suing party establishes by proof the existence of an instrumentality wholly within the dominion and control of the defendant and a resultant injury to the plaintiff which normally does not occur in the absence of negligence, the law raises a presumption that the defendant was negligent. This particular presumption, under Tennessee Law, and under the law of many states, has no weight in getting the case to the jury once the defendant has come forward with some evidence that the injury could have resulted from a cause other than his negligence. In other words, the presumption arising in res ipsa cases does not shift the burden of proof to the defendant, it merely shifts the burden of going forward with the evidence.

The effect of the proposed rule is actually to shift the burden of proof to the defendant, and, notwithstanding evidence that the injury could have resulted from acts other than defendant's negligence, the case would go to the jury to be decided with only the weight of the presumption favoring the plaintiff. It is thus apparent that the treatment given presumptions by Rule 301 does not affect the substantive rights of litigants.

One need only look to Rule 302 for unequivocal evidence that the advisory committee itself realized that when it enacted Rule 301 it was altering substantive law.

It is well known to lawyers and judges that under the doctrine of *Erie Railroad Company vs. Tompkins*, 304 U.S. 64 (1938) in diversity cases the federal courts in substantive matters must apply the law of the state in which the Court is sitting. In other words, a rule of law which is "substantive" must be determined by the Federal Courts by looking to the law of the state in which the Court sits.

With this frame of reference in mind, the committee's attention is directed to Rule 302 which reads as follows:

"In civil actions, the effect of a presumption respecting a fact which is an element of a claim or defense as to which state law supplies the rule of decision is determined in accordance with state law."

In the advisory committee's note under Rule 302, it is recognized that questions relating to burden of proof are substantive. It is therefore inescapably to be concluded that Rule 301 creates a new rule of substantive law in Federal Courts but because of the constitutional implications and the precedent of Erie Railroad Company v. Tompkins, the committee was forced to create an exception in cases based upon diversity.

Now, laying aside the moment the basic question of the power of the Supreme Court to promulgate such rules under the enabling legislation, and turning to the merits of some of the proposed rules themselves, it is immediately evident that some of the rules do little more than restate existing law, in which case they are unnecessary, while others constitute an express adoption of new Rules of Evidence, derived from the minority view of Courts and from outmoded concepts.

Insofar as the rules represent departure from existing law, the wisdom of that departure should be debated at length by those persons called upon to represent citizens of this nation before its courts and in these legislative halls.

An example of a rule which many of us consider to be the adoption of a regressive law is Rule 609, which provides for the impeachment of witnesses by allowing evidence to be introduced that such witnesses have been previously convicted of crime. This method of character damnation, particularly when applied to a person charged with a crime, has been soundly condemned by many commentators, and courts and praised by none. Exemplary of the view of an enlightened court is the language of McGowan, J., concurring in *Blakney v. The United States*, 397 F2d, 648 (1968):

"As long ago as 1942, the American Law Institute proposed a model code of evidence which sought to blunt this weapon that prosecutors have—and invariably use. The Commissioners on Uniform State Laws did the the same with their 1953 proposal of the Uniform Rules of Evidence. It is surely not to be supposed that any group currently engaged in a similar task do less."

Yet, the advisory committee here has done precisely that which Judge McGowan considered to be unlikely, and initially drafted a rule which was regressive in its scope. Commenting upon the initial draft of the rule, and it must be pointed out that even the initial draft was changed before the final draft was submitted, Professor Robert Spector said in his excellent discussion of this point in 1 Loyola U. L. Rev. 247 (1970):

"In sum, Rule 6–09 should be entirely stricken. Rule 6–08 covers the only legitimate use of character evidence in the impeachment process. Failing this, a rule on the order of the Luck doctrine should be adopted as a halfway measure."

Professor Spector concluded with the following apt quotation from Ashcraft, *Evidence of Former Convictions*, 41 Chi. B. Record 303, 307 (1960):

"The rule, which has no historical sanctity serves no useful purpose and is discriminatory and unfair and should be abolished. Its retention in this day of supposedly enlightened jurisprudence is disgraceful."

Criticism of the basic fairness and judicial soundness of the impeachment rule has not been scattered but has been uniform from a variety of sources, including at least one article by a distinguished member of the standing committee on Federal Practice and Procedure, Dean Mason Ladd.

M. Ladd, *Credibility Tests—Current Trends*. 89 U. Pa. L. Rev. 166 (1940). See also 18 DePaul L. Rev. 1 (1968); 78 Harv. L. Rev. 426 (1963); and 70 Yale L.J. 763 (1961).

Amazingly enough, the final proposed Rule 609 in the draft of the rules now under consideration, has been made even more restrictive than the draft in the original text which was criticized by Professor Spector. The proposed Rule 609, in the original form of sub-sections (b) and (c) read as follows:

"(b) Time limit. Evidence of a conviction under this rule is inadmissible if a period of more than 10 years has elapsed since the date of the release of the witness from confinement, or the expiration of the period of his parole, probation, or sentence, whichever is the later date.

"(c) Effect of pardon, annulment, or certificate of rehabilitation. Evidence of a conviction is admissible under this rule if (1) the conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure, and (2) the procedure under which the same was granted or issued required a substantial showing of rehabilitation or was based on innocence.

The final proposed Rule 609 was amended to read:

"(b) Time limit. Evidence of a conviction under this rule is not admissible if a period of more than 10 years has elapsed since the date of the release of the witness from confinement, imposed for his most recent conviction, or the expiration of the period of his parole, probation, or sentence granted or imposed with respect to his most recent conviction, whichever is the later date.

"(c) Effect of pardon, annulment, or certificate of rehabilitation. Evidence of a conviction has been the subject of a pardon, annulment, certificate of rehabilitation, or other equivalent procedure based on a substantial showing of rehabilitation and the witness has not been convicted of a subsequent crime, or (2) the conviction has been the subject of a pardon, annulment, or other equivalent procedure based on innocence."

It is our information and belief that the change reflected in the latter version of subsections (b) and (c) were made by the Court at the request of the Attorney General after the Attorney General's request had been proposed to the advisory committee and rejected by that body. The final draft of this rule was not circularized to the bench and bar prior to the submission thereof by the Court to this Congress.

There are other examples of late changes in the draft subsequent to the circularization of the original draft which the Congress should carefully study as to purpose, intent and wisdom.

An example of a codification by these rules of an extreme minority position in judicial thought in the United States is Rule 706, authorizing the trial judge to appoint his own expert in the trial of cases calling for expert testimony. This rule allows the Judge on his own motion, or on the motion of any party to enter an order to show cause why expert witnesses should not be appointed by the Trial Judge and empowers the Judge to make such an appointment either of a witness agreed upon by the parties or a witness of his own selection. The deposition of such a witness may be taken by either party and he may be called to testify by either party or by the Judge himself.

This rule abridges the adversary system and enables the injection of the Court into the trial of cases as an advocate. The judicial system in the United States has long depended upon impartial judges in the administration of justice. There is no authority anywhere for the proposition that the ends of justice are more readily attainable by the trial judge being injected into the adversary system.

As the United States Supreme Court said in *Dennis* v. *United States*, 86 S.Ct. 1840 (1966) "In our adversary system, it is enough for judges to judge."

From a purely practical standpoint known to very few trial lawyers, the adoption of the rule empowering the Court to appoint an expert would virtually abolish any opportunity of success in medical negligence cases. Any lawyer who has ever handled a medical negligence case is aware of the near impossibility of obtaining a medical expert witness who is willing to testify in favor of the plaintiff-patient against a fellow physician. The research for such an expert invariably leads to physicians in far away places and rarely ever results in a local physician being found willing to testify.

It is quite obvious that under this rule, in a case involving the need for a neurosurgeon, for example, the trial court would select as his appointed expert a local physician likely to be known by the defendant. Bringing such an expert before a jury and having him designated as the Court's appointed expert, would add such weight to usually biased testimony that plaintiffs could not overcome such an obstacle thus imposed against them.

The treatment given the hearsay rule in evidentiary matters by these proposed rules is earthshaking. Time does not permit an analysis of all of the details of this treatment. An example that points up this statement is proposed Rule 801 with particular reference to sub-section (d) thereof which undertakes to prescribe certain statements which are no longer to be considered hearsay.

An example of the type statements which are no longer to be treated as hearsay and are consequently to be received in evidence as proof of the matter asserted is where a declarant testifies at the trial and is subject to cross-examination concerning a prior statement and where the prior statement is inconsistent with testimony given at the trial. Under such circumstances, proof of the prior inconsistent statement can be offered and such evidence will constitute proof of the truth of the matters asserted therein.

What can happen in the application of this rule? A defendant in a criminal case can be convicted under this rule where not one single witness has appeared at the trial to testify to his guilt from the personal knowledge of such witness. It is submitted that this rule undercuts one of the most basic rules guaranteeing fair play in criminal trials. Furthermore, the rule, as herein proposed, is only in effect in three states in the United States—California, Kentucky, and Wisconsin, and has only been in effect in these three states for a very short period. In the language of Chief Justice Burger commenting upon an identical rule, in *State of California v. Green*, 399 U.S. 149 (1970) "None of these states has yet had sufficient experience with their innovations to determine whether or not the modification is sound, wise, and workable."

CONCLUSION

The law is an intricate fabric. It must be flexible and adaptable to a myriad of factual circumstances inherent in human behavior. The growth of the common law in the western world has been slow but most scholars believe headed in the right direction.

The Rules of Evidence, as known and practiced in the United States have been hundreds of years in their development and evolution in a slow and orderly judicial process. They have been tested and re-tested against an endless variety of factual situations and should not be lightly overturned.

For these reasons, on behalf of the organization we represent, the largest trial bar in the world, this committee is strongly urged to delay the effective date of these rules to allow time for any such rules to reflect the wisdom inherent in the legislative branch of the government wherein lies the inherent power for their enactment.

Finally, we pledge the resources of our organization in cooperation with the Congress, in undertaking a line by line and item by item study of these rules to the end that they will, if adopted, represent a step forward in the law.

EXPLANATION OF AMENDMENTS

As S. 583 passed the Senate, it provided the Rules of Evidence, the amendments to the Rules of Civil Procedure, and the amendments to the Federal Rules of Criminal Procedure "shall have no force or effect prior to the adjournment sine die of the first session of the Ninety-third Congress except to the extent that they may be expressly approved by such Congress prior to such sine die adjournment."

The text of the amended bill as reported provides in place of the quoted language the following: "shall have no force or effect except to the extent, and with such amendments, as they may be expressly approved by Act of Congress."

The effect of the change in language is:

1. To require affirmative action by Act of Congress before the rules become effective.
2. To make it clear that this or any succeeding Congress may act on the rules.
3. To make it clear that the rules as proposed may be accepted in whole or in part, with or without changes.

The amended bill as reported also deletes section 2 of the bill as it passed the Senate. This section is considered duplicative of the words "notwithstanding any other provisions of law" in section 1 and might, despite the intention to the contrary stated in Senate Report 93–14, erroneously be construed as effecting the repeal of the enabling acts.

The amended text also makes non-substantive, conforming changes in the bill. It amends the title to reflect the basic amendment first discussed above, and to reflect that the Chief Justice was "authorized", not "ordered", to transmit the proposed rules to the Congress. It also makes the changes necessary to take into account the existence of the second order of the Supreme Court, dated December 18, 1972, promulgating the rules.

STATEMENT

By orders dated November 20, 1972, and December 18, 1972, the Supreme Court of the United States authorized the Chief Justice to transmit to the Congress proposed Federal Rules of Evidence and amendments to the existing Rules of Civil and Criminal Procedure. As stated in the order of the Court, these rules were prescribed pursuant to sections 3402, 3771, and 3772 of title 18, United States Codes, and sections 2072, and 2075 of Title 28, United States Code. The cited statutes are commonly referred to as the rules enabling acts.

Section 3402 of Title 28 empowers the Court to prescribe rules of "procedure and practice" for the trial of cases before magistrates. Section 3771 of the same Title authorizes the Court to prescribe rules of "practice and procedure" with respect to criminal proceedings after verdict. It provides that the Court "may fix the dates when such rules rules shall take effect." Section 3771 authorizes the Court to prescribe rules of "practice and procedure" in criminal cases to and including verdict. That section also provides:

"Such rules shall not take effect until they have been reported to Congress by the Chief Justice * * * and until the expiration of ninety days after they have been thus reported."

Sections 2072 and 2075 of Title 28, relate respectively to civil rules of "practice and procedure" and bankruptcy rules of "practice and procedure." Both are cast in terms identical with those quoted from Section 3771 of Title 18.

Although the November 20, 1972 order of the Supreme Court directed that the rules "shall take effect on July 1, 1973", there are some authorities who believe this date would control the implementation of the rules, but

that they would become "law" on May 6, by virtue of the ninety-day provision of the enabling statutes.

Several days before the rules were formally transmitted to the Congress, Senator Ervin introduced S. 583 to defer the effective date of the rules (whether May 6 or July 1) to the end of this session of Congress, except to the extent they are expressly approved by the Congress at an earlier date. In introducing the bill, Senator Ervin commented on the short time frame within which the Congress had to consider the important, controversial rules which were eight years in the making.

On February 5, 1973, the Senate Judiciary Committee reported S. 583 favorably without amendment, and on February 7, the bill passed the Senate without objection.

The Special Subcommittee on Reform of Federal Criminal Laws opened its hearings on February 7, two days after the rules were received from the Court. The Subcommittee has now had four days of hearings and has two more scheduled for later this month—March 9 and March 15.

In the course of the hearings, the magnitude of the questions before the Congress has become clear. Witnesses, including former Supreme Court Justice Arthur Goldberg, Chief Judge Henry J. Friendly of the Court of Appeals for the Second Circuit, and spokesman for the American College of Trial Lawyers, the National Legal Aid and Defender Association, and the Department of Justice, and the Attorney General of the State of Wisconsin, who is also the President-elect of the National Association of Attorneys General, and indeed those who appeared on behalf of the Judicial Conference, have brought to the Committee's attention substantial questions for congressional consideration:

(1) Are there constitutional impediments to the promulgation of Rules of Evidence by the Supreme Court, rules which may impinge on state-created substantive rights and infringe on the constitutional separation of powers?

(2) Are the Rules of Evidence within the purview of the authority granted the Court by the enabling acts? Justice William O. Douglas, dissenting from the Court action, said he doubted that they were.

(3) Assuming no constitutional law problems, and that the Rules are within the authority conferred by the enabling acts, is it wise and is there a need as a matter of policy to have rules of evidence uniform in the Federal courts across the country? Is it more desirable to have certain rules uniform as between the Federal courts and the States in which they sit?

(4) Has there been enough exposure of the proposed rules for interested and affected persons and organizations to comment? For example, the American Bar Association itself is not yet in a position to speak to the rules. As reflected in the correspondence from the the President of the Association to the Chairman of the Committee, printed below:

"The Rules of Evidence * * * which were authorized to be submitted to the Congress * * * have never been submitted to any Committee of the American Bar Association, and contain new matters which were not included in any earlier draft submitted or considered by the ABA."

(5) Should various of the individual rules be adopted in their present form? For example, the Special Subcommittee on Reform of Federal Criminal Laws has received adverse testimony with respect to the formulation of the rules relating to doctor-patient and husband-wife privileges, impeachment, hearsay, secrets of state and official information, opinion and expert testimony, and presumptions, among others. The exclusion of newsman's privilege in the Federal courts in those States which have shield laws has also been the target of adverse testimony.

Although it is the intention of the Committee to press forward diligently so that the Congress can act as promptly as possible on the rules, it has become clear there is enough controversy wrapped up in the 168 pages of rules and Advisory Committee notes that the rules should not be permitted to become effective without an affirmative act of Congress, and then, only to the extent and with such amendments, as the Congress shall approve. This is the effect of the bill as reported.

COST

Pursuant to Rule XIII (7) (a), the Committee reports that no costs are anticipated as a result of this enactment.

CORRESPONDENCE

AMERICAN BAR ASSOCIATION,
Chicago, Ill., February 16, 1973.

Hon. PETER W. RODINO, Jr.,
Chairman, Committee on the Judiciary,
House of Representatives,
Washington, D.C.

DEAR CHAIRMAN RODINO: I am pleased to advise you that the House of Delegates of the American Bar Association, at its Midyear Meeting in Cleveland February 12–13, adopted a Resolution favoring enactment by the Congress of S583, sponsored by Senator Ervin, to extend the period in which Congress could give consideration to the proposed new Federal Rules of Evidence and Criminal Procedure.

The Resolution on which the House of Delegates acted was submitted by this Association's Special Committee on Federal Practice and Procedure. As approved by the House the Resolution states:

Whereas, the Rules of Evidence for the United States Courts and Magistrates which were authorized to be submitted to the Congress by order of the Supreme Court of the United States dated November 20, 1972, have never been submitted to any Committee of the American Bar Association, and contain new matters which were not included in any earlier draft submitted or considered by the ABA;

Resolved, That the American Bar Association urges the Congress to adopt legislation such as S. 583 (93rd Congress), a copy of which is attached.

In addition I can advise you that Mr. Kluwin's Special Committee has scheduled for March 12 in New Orleans another meeting to consider further the changes in the rules and whether it should recommend any course of action to the Association with respect to them. You will, of course, be kept advised of such action as the Association may determine to take.

Sincerely yours,

ROBERT W. MESERVE.

Mr. ERVIN. Mr. President, I have felt for a long time that the time allowed for Congress to consider recommendations for establishing rules of procedure by the Supreme Court is too short. For this reason, I introduced the bill in the Senate, which was passed without objection, postponing the effective date on the rules mentioned in it to the end of the present session of Congress.

The House saw fit to amend this bill so as to provide that the rules will not become effective unless they are affirmatively approved by Congress and that they can be amended by Congress.

The debate in the House shows that the members of the House Judiciary Committee are going to proceed with hearings on the proposed rules and will process them as a bill, with such changes as may be made by them.

I think this is the proper thing to do in the existing situation. There is great doubt whether Congress is permitted by the statutes to amend the rules submitted to it by the Supreme Court. The substitute provides that there can be amendments to the proposed rules.

The author of the substitute is the distinguished Congresswoman from the 16th District of New York, ELIZABETH HOLTZMAN. I have received a letter from her dated March 19, 1973, which affirms that it is her purpose, and the purpose of the House Judiciary Committee, and of the House, in proposing and adopting this substitute, that the rules will be studied and considered just as would a legislative bill.

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

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

CONGRESS OF THE UNITED STATES,
Washington, D.C., March 19, 1973.

Hon. SAM ERVIN,

DEAR SENATOR ERVIN: I was delighted by the overwhelming passage of S. 583 by the House last Wednesday and wanted to thank you again for your leadership in initiating this legislation and for the courtesies you extended to me in connection with the House amendment.

I wanted to reassure you that the debate on the Floor of the House confirmed that the purpose of S. 583 as amended was not to "kill" the proposed Rules of Evidence. Instead, it was our intention to permit Congress to consider the Rules in a matter consistent with Congressional prerogatives and the complex issues the Rules raised.

I thought you would also be interested to know that testimony before the House subcommittee considering the Rules of Evidence revealed that the approach taken in S. 583—having Congress enact the Rules of Evidence—might avoid litigation over whether the Supreme Court has power to promulgate substantive evidentiary rules, a question that would arise under the original version of S. 583.

Please accept my appreciation again and I look forward to working with you in the consideration of the Rules of Evidence for the Federal Courts.

Sincerely,

ELIZABETH HOLTZMAN,
Member of Congress.

Mr. ERVIN. Mr. President, I ask unanimous consent that the distinguished Senator from Nebraska (Mr. HRUSKA) be yielded 5 minutes at this time.

Mr. ROBERT C. BYRD. Mr. President, has the time expired?

The ACTING PRESIDENT pro tempore. The time of the distinguished majority leader has expired.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent, if the distinguished Senator from Georgia (Mr. TALMADGE) has no objection, that the time yielded back by the distinguished Republican leader be reserved and that it now be yielded to the distinguished Senator from Nebraska (Mr. HRUSKA). That is 5 minutes, is it not?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is correct. The Senator from Nebraska is recognized for 5 minutes.

Mr. HRUSKA. Mr. President, it is not often that the distinguished Senator from North Carolina and this Senator differ on a major and fundamental proposition. However, the bill now under discussion is a major and fundamental proposition upon which my colleague

and I hold differing views. I might note that—in this event, we do not disagree so much on substance or on a matter of procedure and form.

The Enabling Act under which Congress processes rules submitted by the Supreme Court was long ago recognized as defective by myself and the Senator from North Carolina. Unfortunately, it requires that Congress act within 90 days to approve or reject rules promulgated by the Supreme Court. It is a preposterous situation, because the Advisory Committee on the Federal Rules of Evidence worked for 8 years to develop the rules of evidence and now by law we are required to consider them at length within a period of only 90 days.

Unfortunately, however, instead of just extending the time for consideration of the proposed rules, the House has completely reversed the process. Under the House amendment the rules will not become effective unless both Houses take affirmative action.

In my judgment, Senate concurrence in the House amendment would be a gross error. Congress already is heavily committed to schedules which will not permit the kind of consideration to which the rules are entitled. The desirability for certainty and the desirability for uniformity in rules of evidence for all Federal courts has been demonstrated far too many times for me to go into now. I state it only as a general proposition.

It would be far more preferable, it seems to me, to adopt the Senate-passed version of S. 583. This would provide that unless Congress acted by December 31 of this year, these rules would go into effect. Of course, there will always be open to Congress the power to amend those rules which have become law. We could take out the offensive sections and replace them with corrected or modified provisions.

I know there have been assurances from the other side that it is the intention of Chairman HUNGATE of the Judiciary Subcommittee on Revision of Federal Criminal Laws to proceed promptly on affirmative legislation establishing rules of evidence. The author of the amended version of the subject bill as passed by the House, Congresswoman HOLTZMAN, has also said she will cooperate in the effort.

But the fact remains that the House subcommittee has the title 18 revision to take care of. They also have the omnibus judge bill and a number of other urgent matters. They are heavily committed. We on this side of Congress are also heavily committed. The Senator from North Carolina is one of the most heavily burdened in this Chamber. All of us would agree that, notwithstanding his tremendous capacity for work, Senator ERVIN has no shortage of work. This observation would apply to all of us interested in this project.

I wonder whether I could prevail upon the thinking of the Senator from North Carolina on one aspect of this issue. Would the Senator from North Carolina entertain sympathetically a proposal to reconsider our action today, if we find ourselves in a bind somewhere down the line in the future months which will make it apparent that we will not be able to get the job done of considering positive legislation and enacting uniform Federal rules of evidence?

Mr. ERVIN. Unless the Senate concurs in the House substitute, I believe there would be danger that the Congress would not be able to get any legislation through before the rules would take effect.

I point out that one of the present Associate Justices of the Supreme Court, Justice Douglas, doubts whether the statute gives the Supreme Court the power to adopt rules of evidence; and a former Associate Justice of the Supreme Court, Mr. Goldberg, expresses a similar opinion.

I suggest that if the rules should go into effect under the statute without Congress approving them affirmatively, the Court will have controversies as to whether any of the rules are valid.

When I talked with Judge Maris about this, he said:

> Congress can pass other legislation to change the rules.

I said:

> Judge, how long has your committee been working on these rules?

He said:

> We have been working on them 7, 8, or 9 years.

I said:

> You expect us to pass on them in 90 days. I'll have to tell you, with reluctance, that the legislative process is sometimes like the judicial process: It travels on leaden feet.

I think that, under the circumstances, the Senate should concur in the House substitute.

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

Mr. TALMADGE. Mr. President, I yield 2 minutes of my time to the distinguished Senator from North Carolina.

Mr. ERVIN. I assure my good friend, the Senator from Nebraska, who is a fine lawyer and is very much interested in legal questions and does great work in the Committee on the Judiciary on such questions, that I will join him later in introducing these rules as a bill, with the idea that they will get action as soon as possible.

Mr. HRUSKA. When would we be prepared to introduce a bill?

Mr. ERVIN. We could introduce it any time, but it will be sometime before I have time to study the rules in detail.

Mr. HRUSKA. I would rather not adopt the House version of the bill, but if it is insisted upon, I will acquiesce.

But as time goes on and we get into the months of May and June and find that the promised progress has not materialized and is perhaps unrealistic, would the Senator from North Carolina listen to some proposal which would assure that these rules not be totally rejected and lose the momentum they have gained in the last 7 or 8 years?

As he pointed out, neither he nor I have much time to deal with them presently.

After all, the Advisory Committee on the proposed Federal rules of evidence worked on the recently promulgated rules for a period of 8 years. Its membership was drawn from the highest order of legal ability in the field. Mr. Albert E. Jenner, Jr., chairman of the committee and one of the giants of the litigating bar, put an enormous amount of effort into the project.

The complete membership of the committee reads as follows:

ADVISORY COMMITTEE ON RULES OF EVIDENCE

Albert E. Jenner, Jr.
David Berger.
Robert S. Erdahl.
Honorable Joe Ewing Estes.
Professor Thomas F. Green, Jr.
Egbert L. Haywood.
Honorable Charles W. Joiner.
Frank G. Raichle.
Herman F. Selvin.
Honorable Simon E. Sobeloff.
Craig Sangenberg.
Honorable Robert Van Pelt.
Honorable Jack B. Weinstein.
Edward Bennett Williams.
Reporter: Prof. Edward W. Cleary.
Secretary: William Foley.

Mr. ERVIN. I agree that I will join the Senator from Nebraska in introducing a bill containing these rules and would let it be processed as a legislative act. I am not in a position to agree that the rules would take effect without congressional action.

Mr. HRUSKA. I would welcome legislative action. However, this is an important matter, and I do not think we should lose its benefits or the prospect of such benefits. Many States are already proceeding on the rules as promulgated. Yet, they are not official rules. They are utilizing them and they are depending on us to go forward.

With the assurances that have been given in the House and the idea that a bill will be introduced reasonably soon, I will let the matter rest for the present.

Mr. ERVIN. I agree.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the motion to concur in the House amendment.

The motion was agreed to.

Mr. ERVIN. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. ROBERT C. BYRD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Georgia is recognized for not to exceed 13 minutes.

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

Mr. TALMADGE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may yield to the distinguished Senator from Georgia such time as he has already yielded to other Senators, plus an additional minute which I hope he will yield to the distinguished Senator from Connecticut (Mr. RIBICOFF), so that the Senator from Georgia will not have been penalized whatsoever with regard to his time.

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

Mr. TALMADGE. Mr. President, I yield

1 minute to the Senator from Connecticut.

Mr. RIBICOFF. I thank the Senator.

DEATH OF FORMER SENATOR WILLIAM BENTON

Mr. RIBICOFF. Mr. President, it is with a deep sense of loss that I announce that former U.S. Senator William Benton of Connecticut died Sunday, March 18, 1973, in his sleep in his apartment in New York City, Senator Benton was 72.

Bill Benton served in the Senate from 1949 to 1952. He was appointed to the Senate by Connecticut Governor Chester Bowles in 1949 and won election in 1950 to fill out the unexpired term of Senator Raymond E. Baldwin.

Senator Benton was a great and dedicated public servant. He devoted his life to the betterment of mankind. His life was many faceted, encompassing politics, business, the arts, and education. Bill's sudden death comes as a great shock to myself and his many friends. Mrs. Ribicoff joins me in extending our deepest sympathy to Bill's wife, Helen, and other members of his family.

A success in business at an early age, Bill Benton entered public service in 1939 when he became an adviser to Nelson A. Rockefeller, then the Coordinator of Inter-American Affairs. In 1945, President Truman appointed him Assistant Secretary of State for Public Affairs.

As Assistant Secretary for 2 years, Bill organized the Voice of America broadcasts and was active in the establishment of UNESCO, the United Nations Educational and Cultural Organization. During the Johnson administration, Bill Benton was the chief U.S. member of the UNESCO executive board with the rank of Ambassador.

Bill was born April 1, 1900, in Minneapolis. His father, Charles William Benton, was a Congregationalist minister and a college professor. His mother, the former Elma Hixson, was a county school superintendent.

Graduating from Yale in 1921, Bill went into the advertising business. In 1929, he and Chester Bowles formed an advertising agency known as Benton and Bowles.

The young firm prospered. By 1935, when Bill left advertising and became vice president of the University of Chicago.

He later became publisher and chairman of the board of the Encyclopaedia Britannica and made that organization into a great success.

I ask unanimous consent that an article published in the New York Times of March 19 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, Mar. 19, 1973]

WILLIAM BENTON DIES HERE AT 72; LEADER IN POLITICS AND EDUCATION

(By Alden Whitman)

Former Senator William Benton of Connecticut, publisher of the Encyclopaedia Britannica and onetime Assistant Secretary of State, died early yesterday in his sleep in his apartment at the Waldorf Towers Hotel. He would have been 73 years old on April 1. His home was in Southport, Conn.

There will be a memorial service at 3:30 P.M. on Wednesday at Trinity Church (Episcopal) in Southport.

Mr. Benton had been released from Lenox Hill Hospital on Feb. 26 after recovering from pneumonia.

A man who never seemed to operate at less than full tilt, William Burnett Benton crammed at least five careers into his lifetime. He was, at various times, an advertising executive, a university vice president, a public servant and Senator and the head of a vast publishing empire. In all these careers, except politics, he wielded the Midas touch.

One example of Mr. Benton's business acumen was the Muzak Corporation, which he picked up in an idle moment in 1939–40, when he was still with the University of Chicago. After expanding the company's operations and taking several millions out of it in dividends, he sold it in 1957 for $4.35-million. But despite his undoubted feel for the marketplace, Mr. Benton preferred to regard himself (and to be regarded) as a serious and dedicated educator and statesman.

In this respect he was chairman of the company that published and sold the Encyclopaedia Britannica, from which he and his family made a great deal of money, much of it given to the William Benton Foundation. At the same time the company enriched the University of Chicago, a contractual beneficiary, by more than $25-million in 25 years.

A friend and business partner was astonished by the ease with which Mr. Benton made money, remarking that he "completely lacks the acquisitive instinct" and adding:

"You never saw a businessman spend less time thinking about money."

ANOTHER VIEWPOINT

Another associate of 20 years disagreed, saying:

"It's like a fellow playing 40 games of chess simultaneously. You could say you never saw a fellow spend so little time on a game of chess. But that wouldn't be the whole story."

In politics, which engaged Mr. Benton from 1945, he was a liberal Democrat, whose record as Senator from Connecticut was highlighted by opposition to Senator Joseph R. McCarthy, the Wisconsin Republican and anti-Communist crusader.

In 1951, when Mr. McCarthy was at the apogee of his influence, Mr. Benton introduced a resolution that, in effect, denounced his colleague as a liar and a thief and as unworthy to sit in the Senate. Hearings on this resolution led ultimately to Mr. McCarthy's censure in 1954, but by that time Mr. Benton was out of the Senate, having been defeated at the polls in 1952. Mr. McCarthy's enmity was generally credited with helping in the defeat.

He tried several times thereafter for office, but as one biographer put it, he was "never really one of the boys." Mr. Benton, it was said, "simply does not react" to a person and an ambiance, and could rarely bring himself to utter a flattery. Less kindly observers said that he was such a fountain of ideas that he did not listen to the notions of others and was inclined moreover to be vain-glorious.

SON OF A CLERGYMAN

Mr. Benton's background was religious and educational. Born April 1, 1900, in Minneapolis, he was the son of Charles William Benton, a Congregationalist clergyman and college professor, and the former Elma Hixson, a county school superintendent. His father died when he was 13, and his mother took the family to Montana to clear ground for a homestead.

Bill Benton entered Yale on his second attempt and graduated in 1921. He worked his way through as a high-stake auction bridge player. While denying reports that he cleared $25,000 a year, he told a friend that "it's a demonstrable fact that for 10 years I was one of the 10 or 20 best card players in the world."

On graduation he turned down a Rhodes Scholarship for a job as an advertising copywriter. This horrified his mother, who wrote her son, "If you won't go into a respectable profession, can't you at least be a lawyer?"

In advertising, he rose to become assistant general manager of Albert Lasker's Lord & Thomas agency in Chicago. He was earning $25,000 a year when he left in 1929 to join Chester Bowles in forming Benton & Bowles with a capital of $18,000. This agency, New York-based, attained annual gross billings of $18-million by 1935, of which Mr. Benton's share was $250,000—a huge sum in the Depression.

Pioneering in market research and the use of radio as an advertising medium, Mr. Benton was in part responsible for the Maxwell House "Showboat," the Palmolive "Beauty Box," "Gang Busters" and Fred Allen's "Town Hall Tonight." He has been credited with introducing the studio audience and signs to direct it to applaud, as well as commercials with sound effects.

"Up to then, you'd always had a commercial announcement, somebody stopping the show and talking, as though he were reading from a magazine," Mr. Benton recalled. "I staged commercials, you could hear the spoons, people clinking cups of coffee, everything acted out. It was revolutionary; it was like the first girl standing on her head on the back of a horse."

It was Mr. Benton, impressed with the local "Amos 'n' Andy" comic show in Chicago in 1929, who initiated its sponsorship on a national network by Pepsodent that made the show's characters, played by Freeman Gosden and the late Charles Correll, household words.

Mr. Benton had determined to quit advertising when he was 35, and in 1935, he did, having by that time made $1-million. Almost immediately, however, Robert M. Hutchins, his Yale classmate and president of the University of Chicago, persuaded him to become a vice president of the school. He held that post from 1937 to 1945 and helped the university pioneer in educational radio and educational movies. His radio program, "The University of Chicago Round Table," won several awards as an adult education show.

With characteristic self-regard, Mr. Benton appeared on the show, talking about the common man, censorship, cartels, foreign relations and other topics on which he was able to brief himself with remarkable thoroughness.

"COOKING UP THINGS"

At Chicago, Mr. Benton was, in effect, advertising a university. "Bill was what an engineering concern would call research and development," Mr. Hutchins said. "We worked on cooking up things, all kinds of measures, some of them successful, some of them abortions."

One of his greatest successes turned out to be the Encyclopaedia Britannica, which had been bought from its British owners after World War I by Sears, Roebuck & Co. In 1943 the mail-order house wanted to get rid of the publication and offered it to the university. Mr. Benton put up $100,000 in working capital for the acquisition and gave the school a beneficiary interest in the profits.

The salesmanship methods that Mr. Benton employed over the years to push the encyclopedia and its associated enterprises—chiefly classroom films, a yearbook, a junior encyclopedia, an atlas and a dictionary—have been much criticized as "hard sell." But there has been little question that they produced results. Nevertheless, in the judgment of a number of experts, the informational quality

of the Britannica was greatly diluted under Mr. Benton's management. And at least one editor resigned in a huff over the volumes' contents.

Mr. Benton not only defended the Britannica, but also expanded its related business by publishing the 54-volume "Great Books of the Western World" series and a companion 10-volume set called "Gateway to the Great Books." In 1964 the Britannica company acquired the G. & C. Merriam Company, which publishes Webster's Dictionary.

Administering his publishing realm, Mr. Benton was accustomed to flying 75,000 miles a year to ginger up his underlings and to dictating up to 8,000 words a day of ideas and suggestions for his aides to execute. Recipients of these memos were amazed (and sometimes numbed) by their author's fecundity and circumlocutions.

In 1971, in a joint venture with the Tokyo Broadcasting System, Mr. Benton began publishing an international encyclopedia in Japanese.

He edged into public service in 1939 as an adviser to Nelson A. Rockefeller, then coordinator of Inter-American Affairs. Out of this, and an interest in economics as a founder of the Committee for Economic Development, came his appointment in 1945 as Assistant Secretary of State for Public Affairs.

As Assistant Secretary, his post for two years, he organized the Voice of America broadcasts and was active in the establishment of UNESCO, the United Nations Educational, Scientific and Cultural Organization. During the Johnson Administration he was chief United States member of the UNESCO executive board with the rank of Ambassador.

He served last year on the educational platform committee at the Democratic convention in Miami.

APPOINTED BY BOWLES

Mr. Benton became a Senator by courtesy of his old business partner, Chester Bowles, who was Governor of Connecticut in 1949. Mr. Bowles appointed him to fill a vacancy, and then he won an election in 1950 for the rest of the term. His Senate record included a plea for a Fair Employment Practices Commission and a fight against the McCarran Immigration Act as restrictive of the people of eastern and southern Europe. He voted for the legislation, however, when his appeals against it proved futile.

Out of office after 1952, he was identified with the Adlai E. Stevenson wing of the Democratic party and campaigned for Mr. Stevenson in 1956 and supported him again in 1960. The two were warm friends, and Mr. Stevenson was a frequent guest at Mr. Benton's home in Southport.

From his student days, when he was editor of The Yale Record, Mr. Benton was interested in art and in his friend Reginald Marsh in particular. By 1954, when Mr. Marsh died, Mr. Benton had collected hundreds of his paintings, which centered on the vulgarities and vagaries of American life. Marsh, who has come to be recognized as a major artist, forms the richest part of Mr. Benton's collection, which also includes works by Ivan Albright, Jack Levine, Bellows, Hassam and Kuniyoshi.

In 1972 the University of Connecticut named the William Benton Museum of Art in Mr. Benton's honor. Later that year he gave his collection of Albright's medical sketches to the University of Chicago Medical School. In the same year he was named Chubb Fellow at Yale.

Mr. Benton married Helen Hemingway, a Connecticut schoolteacher, in 1928. Also surviving are two sons, Charles and John; two daughters, Mrs. Helen Bolgey and Louise, and eight grandchildren.

THE CIVIL RIGHTS COMMISSION REPORT ON FORCED SCHOOL BUSING

Mr. TALMADGE. Mr. President, I was interested the other day to see the U.S. Commission on Civil Rights come out with a report in an effort to show that a majority of the American people are not very much opposed to forced schoolbusing—and, that most people would not really be against it at all if they really understood more about the problem.

That is absurd. If more people knew more about forced busing, there would be even greater opposition to this idiocy that has nothing whatsoever to do with improving education. The fact is, busing has done more to damage the integrity of schools since public education first began in our Republic.

The Civil Rights Commission had a poll conducted. It showed essentially the same thing as many polls for several years now. That is, an overwhelming majority of the American people are opposed to having their children bused to school against their wills.

According to the Civil Rights Commission survey, 70 percent are against busing. Unable to either accept or understand that, the Commission then said people are opposed to busing because they are misinformed.

I cannot vouch for the authenticity of the poll or the sample taken by the Civil Rights Commission. But I take strong exception to the notion that people oppose busing because they are misinformed.

I submit, Mr. President, if the American people were more informed about forced busing, if they knew more about its actual problems and hardships and the chaos it has brought to education in many areas, more would be adamantly opposed to busing than have been reflected by current polls.

I suggest that the Civil Rights Commission come down from its lofty cloud of liberal idealism, return to the reality of everyday life on earth, and face facts about forced schoolbusing.

Many of us in Congress—and more important, thousands of concerned parents have painfully had to face these facts for several years.

I further suggest that the Civil Rights Commission better inform itself. After doing so, and after laying all the facts on the table, for the public to see, it might be enlightening to the Commission to conduct another poll about busing.

Seventy percent is a sizable majority. Contrary to the foolishness put out by the Civil Rights Commission last week, that percentage would go even higher, I believe, if people were more aware of the problem of forced schoolbusing.

The Civil Rights Commission seemed to be saying that people misunderstand forced busing, and therefore we ought to embark upon a program to better inform them so that nobody would be against it anymore.

Let us take the Civil Rights Commission at its word. Let us inform the people what forced busing is all about. Let us spread the word far and wide all about the country. People in the South already have firsthand knowledge about busing and what it has done to the education of their children.

If people are misinformed about busing, then let us inform them. Let us tell them what it is costing in terms of taxpayers' dollars at a time when most school systems are crying for enough funds just to meet bona fide educational necessities.

Let us tell them what it is costing in terms of chaotic educational programs, and broken after school, extracurricular activities that are so important to one's total school career.

Let us tell them what it has cost public education in the loss of good teachers who have fled their profession.

Let us tell them about the increasing flight to the suburbs, and the increasing number of private schools and what it has cost their parents to send them there.

Let us tell them facts and actualities about forced schoolbusing. Let us tell them so they will understand and be better informed—in terms of what already is happening to children and families and education in the South and in certain other parts of the country, and what can happen to their own children's education if this madness continues.

Let us not get bogged down in statistical abstracts which purport to show this or that. Let us tell them about real cases, because that's what their children are.

Children are not ciphers or pawns on a political chessboard, to be pushed around in the name of some kind of social experimentation.

Parents are not concerned with statistics or ideological meandering. They are concerned about their children. They are concerned about the education of their children now—not at some utopian date in the future.

As parents, they feel dutybound to provide for their children the very best kind of education available, under the most favorable conditions possible. That is as it should be, as every parent will understand, whether they be black or white.

As taxpayers, they are justifiably upset because they no longer have say-so over the operation of schools they bought and paid for. They are angry because they cannot even control the education of their own children.

All this has been taken over by the Federal courts, under their myopic view of the U.S. Constitution, which does not even refer to public education anywhere in the entire document.

I am reminded at this point of an article by William Raspberry, a black columnist for the Washington Post. Mr. Raspberry said:

> We have spent too much effort on integrating schools and too little on improving them . . . In Washington, blacks send their children (or have them sent) across Rock Creek Park in pursuit of the dream of a good education. But as the blacks come, the white leave, and increasingly we find ourselves busing children from all black neighborhoods

all the way across town to schools that are rapidly becoming all black . . . (busing has accomplished nothing useful when it has meant transporting large numbers of reluctant youngsters to schools they'd rather not attend . . . Isn't it about time we started concentrating on educating children where they live?

The Civil Rights Commission made a big deal out of the idea that people opposed busing because they were under the false impression that massive busing is going on. If that is the case, let us take a look at the extent of forced school busing in some areas.

Approximately 20,000 are being bused in Charlotte-Mecklenburg, N.C., as far as 15 miles. That is massive busing. In Winston-Salem, N.C., 16,000 are being bused. In Nashville, Tenn., 14,500 are being bused. In Corpus Christi, Tex., 10,000 are being bused. In Norfolk, Va., 14,000 are being bused. In Jackson, Miss., 9,000 are being bused. In Pontiac, Mich., 8,700—a third of the entire school system, are being bused.

All that is massive busing; I do not care what the Civil Rights Commission calls it. In fact, even if only one child were being uprooted from his own neighborhood and transported clear across town to school, that would constitute massive busing to the parents of that child.

Thus, if the public is misinformed about busing as the Civil Rights Commission contends, let us show just how many children are being bused.

The Civil Rights Commission also said the public is laboring under false impressions about the cost of busing. In that case, let us point out the fact that it costs some $2 million to institute busing in Winston-Salem, that it costs $2.5 million to carry out a busing plan in San Francisco, that it costs $2.4 million the first year and $284,000 each year thereafter for busing in Charlotte, that it costs some $500,000 in Augusta, Ga., and $500,000 in Prince Georges County, Md.

No one will ever convince me that this money now being spent to herd children around like cattle could not be put to better use in the pursuit of education, instead of time-consuming bus rides.

While we are better informing the public about the costs of forced busing, let us also call attention to the fact that the Memphis school system lost approximately 7,500 students in the first month of this year, and altogether close to 20,000 students have pulled out since the controversy over busing arose 2 years ago. This situation is duplicated in city after city where busing has been rammed down the people's throats.

Now, let us hear from some citizens who are informed about busing, such as parents whose children have fallen under the long arm of the Federal courts.

The LaGrange, Ga., mother of six children, three in grammar school and three in junior high school, being assigned to attend five different schools.

The Atlanta father of six children, newcomers to the city, who had five of these youngsters assigned to four different schools.

The 1,800 Atlanta teachers who were summarily transferred to schools not in their areas or of their choosing.

The Norfolk father who bought a home in an area convenient to an elementary and junior high school only to see his children ordered bused 10 miles to a school with five different opening times, ranging from 7 a.m. to 10 a.m., meaning that during winter months, his children will be on the streets before daylight and after dark.

Mr. President, the things I have recited here today only scratch the surface of the busing problem. One could go on and on with examples regarding the cost and the hardships inflicted upon the taxpayers, children, and their parents. There is no way at this time to measure how the quality of public education has suffered although, as the Washington Evening Star has editorialized:

Evidence is mounting in such communities as Pontiac, Michigan, and Pasadena, Cal., that forced busing can have a net effect that is decidely harmful."

Perhaps, in retrospect, I can agree at least in part with the Civil Rights Commission. People are misinformed about forced busing. If they were more informed about busing and all of its ramifications, I have no doubt that they would be even more opposed to it and rise up in righteous indignation and demand that Congress do something about it.

Mr. President, last Friday's Washington Post, dated March 16, 1973, had another articles by Mr. William Raspberry on the same subject, "Busing, True or False." I ask unanimous consent that it be inserted in the RECORD at this point as a part of my remarks.

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

[From the Washington Post, Mar. 16, 1973]

BUSING, TRUE OR FALSE

(By William Raspberry)

The U.S. Civil Rights Commission wants to believe that opposition to public school busing has its almost exclusive source in ignorance and bigotry.

And so it reads the results of a recent public opinion poll to "prove" exactly that.

It finds bigotry (and insincerity) in the fact that two-thirds of those polled say they favor integration as a national objective, while only 21 per cent offer general support for busing.

It finds ignorance in the fact that most of the respondents missed most of seven true-false questions about busing.

And it finds hope in the fact that the people who did best on the true-false questions tended to favor busing more than those who scored poorly.

With that sort of interpretation, it is perfectly natural to conclude that the way to sell busing to the American people is to inform the ignorant, expose the insincere and isolate the bigot.

Well, maybe. But the commission's conclusions don't necessarily flow from the Opinion Research Corp. poll.

I have a suggestion. Let Opinon Research put a pair of questions to the staff of the Civil Rights Commission: (1) As a national objective, do you favor racially integrated neighborhoods, that is, neighborhoods populated by both blacks and whites together? (2) Would you favor laws or court orders requiring that families residing in neighborhoods that are too white or too black be forcibly relocated to other neighborhoods in order to achieve neighborhood integration?

My guess is that the staffers would say Yes to Question No. 1 and No to Question No. 2. Yet, when the questions were put not in terms of neighborhoods but of schools and evoked the same yes/no responses, the Commission read it as bigoted and insincere.

The ignorance test involved questions relating to the status of court decisions, the approximate percentages of children now being bused for desegregation, the impact of desegregation on white students' test scores, the comparative safety of riding a bus or walking to school and the relative cost of busing.

Most people missed most of the questions, although nearly half answered correctly that busing is safer, statistically, than walking to school. But what does that mean? Except for one question, the impact of desegregation on white test scores, it's hard to see how informing the ignorant—that is, teaching people the right answers—would make the slightest difference in their attitudes toward busing.

The Civil Rights Commission, needless to say, feels otherwise.

"Too often public officials, educational leaders and members of the mass media have, unthinkingly, accepted the criticisms and passed on the slogans of busing opponents without troubling to examine the evidence."

And the people, in their ignorance, have rejected busing.

Well, maybe the people aren't so ignorant after all. Some people are against busing because they are opposed to integration; no doubt about it. But some are opposed to busing because they are opposed to busing; because they think there is social and educational validity to the neighborhood school; because they believe that there isn't anything at the end of an unnecessary bus trip to justify the economic, social and educational costs.

Desegregation is a racial issue, but it is a tragic mistake to suppose, as the Civil Rights Commission and perhaps the NAACP apparently suppose, that opposition to busing is a bigoted position.

Such a supposition might explain why, in the recent poll, only 17 percent of the white respondents said they would be willing to send their children to a better school in a neighborhood where most residents were of the other race. But now explain why only 49 percent—less than half—of the nonwhites questioned said they would be willing to send their children to that better school?

"The public is clearly confused," the Commission asserts. "The people have been misled. They believe, for example, that the Constitution should not be amended to limit desegregation [favared by only 30 percent] but that it is all right for Congress to restrict the courts' power to order busing [57 percent]."

Only lawyers immersed in civil rights and constitutional law would be confused by that seeming contradiction.

The poll results, taken altogether, seem to me to make a clear (and not at all discouraging) declaration of what Americans, black and white, see as a reasonable racial posture:

There should be no return to racial segregation. Racial integration, in fact, remains an important national goal. But it is not the *overriding* goal, to be achieved no matter what the cost. And you don't have to be a separatist, a bigot or a Tom to feel that way.

The ACTING PRESIDENT pro tempore. The time of the Senator has expired.

Mr. ROBERT C. BYRD. Mr. President, if the able Senator needs additional time, I ask unanimous consent that I may yield 3 additional minutes to him out of my own time under the order.

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

Mr. TALMADGE. I thank the Senator.

U.S. TROOPS SHOULD BE RETURNED FROM WESTERN EUROPE

Mr. TALMADGE. Mr. President, in the past week there have been two news announcements of major importance to the U.S. economy and to the American taxpayer.

First, a newsstory out of Bonn, Germany, warned that the United States may have to pay taxes to West Germany on military installations we maintain over there for their own defense.

Unless we are able to negotiate ourselves out of the dilemma, the United States will be liable under German law for about $10 million in back taxes for the past 10 years—or, a total of $100 million.

It boggles the mind, but does this mean that we are going to have to pay taxes on military installations that we built in West Germany in order to defend the West Germans? That is outrageous to even consider.

We have been maintaining several divisions of American troops in West Germany for more than a quarter of a century—for their defense—and are we now being told that we have to pay taxes for that privilege?

Second, the Pentagon has jacked up its estimates of the cost of the maintenance of U.S. forces in Western Europe. According to defense estimates, it will cost the United States about $17 billion in fiscal 1974 to sustain the approximately 300,000 men and dependents in Western Europe, some $3 billion more than what it cost in fiscal 1972.

This is an intolerable situation. It is one which I and many Members of the Senate have worked to correct for many years. In the past few years, the Senate has adopted resolutions urging the President to bring home most of our troops in Western Europe, where they are not wanted nor needed.

Last week, the Democratic Policy Committee, of which I am a member, voted without dissent that the contingent of U.S. troops stationed overseas, principally in Western Europe, be reduced by two-thirds, and that such reductions be accomplished in stages over the next 1½ years.

We put it as strongly as possible. Reductions of U.S. forces overseas and the closing of excessive and obsolete military bases abroad would save billions of dollars and help to halt inflation, strengthen the dollar, and permit additional use of tax revenues for domestic purposes.

In the past 4 years, we have had deficits in the Federal Government totaling $104 billion. We had a $10 billion deficit in our balance of payments last year alone. We have had trade deficits of more than $8 billion in the past 2 years. Inflation is rampant, and the discredited American dollar has been devalued twice in the past 14 months. There are about $83 billion overseas, and less than $10 billion in gold reserves at Fort Knox.

In short, we need to shore up the American economy. With only 6 percent of the world's population, we need to stop trying to do all things for all people everywhere. An ideal place to start, in a way that would save billions and billions of tax dollars, would be to bring home a good portion of American troops from Western Europe.

Western Europeans have more monetary reserves than we do. They have more available manpower than we do. I say it is time the nations of Europe do more to look after their own defense.

The maintenance of 300,000 American troops in Europe is no longer needed. It is an expense we no longer can afford. They are there to show the flag, as evidence of the U.S. commitment to NATO. I support that commitment, and we will of course stand by our European allies in the event of Communist aggression. But we can do so with far less troops than we have situated there at the present time.

Sometimes events take such a course that shocks the senses of the hard-working American taxpayer. Such is the case with the outrageous proposal that we pay reparations to North Vietnam.

Such is the idea that we ought to pay taxes for the privilege of defending Western Europe.

I say no more. I say it is high time we put our own national interests first and foremost, and abandon the costly policy of making Americans pay their hard-earned tax money to keep up and defend the whole free world.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, how much time do I have remaining under my order?

The ACTING PRESIDENT pro tempore. The Senator has 12 minutes.

Mr. ROBERT C. BYRD. I thank the Chair.

ORDER FOR RECOGNITION OF SENATOR GRIFFIN TOMORROW

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that the distinguished assistant Republican leader (Mr. GRIFFIN) does not wish to utilize his time today. He wishes to institute the order, however, for tomorrow. I therefore ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the distinguished assistant Republican leader (Mr. GRIFFIN) be recognized for not to exceed 15 minutes.

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

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Now I ask unanimous consent, Mr. President, that such time as may be required from the time allotted to Mr. GRIFFIN under the order today may be yielded to me so as to restore my full time.

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

MESSAGES FROM THE PRESIDENT

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

REPORT OF NATIONAL PROGRESS IN AERONAUTICS AND SPACE ACTIVITIES—MESSAGE FROM THE PRESIDENT (H. DOC. 93–63)

The ACTING PRESIDENT pro tempore (Mr. HASKELL) laid before the Senate a message from the President of the United States, which, with the accompanying report, was referred to the Committee on Aeronautical and Space Sciences. The message is as follows:

To the Congress of the United States:

I am pleased to transmit a report of our national progress in aeronautics and space activities during 1972.

The Apollo program was successfully concluded with the flights of Apollo 16 and 17. These missions were designed to obtain maximum scientific return and provided almost half the lunar exploration time in the Apollo program. Though it is far too early to attempt a definitive assessment of the value of this program, it is clear that one result will be a quantum jump in both our scientific knowledge and our technological expertise.

Our unmanned satellites include a variety of vehicles ranging from meteorological, navigational and communication satellites to a new experimental spacecraft providing information on our resources and environment. Increasing practical applications for satellite technology confirm the immediate value of our efforts in space, while observatory satellites and others carrying specialized scientific instruments provide accurate and dependable data never before available to scientists on earth.

The conclusion of the Apollo program marks only another step in this Nation's push into space. In the current year, we expect to launch Skylab, which will permit extended experimentation in a manned vehicle. After Skylab, a joint mission by this Nation and the Soviet Union will rendezvous and dock two spacecraft, helping to link our two space efforts in a mutually productive manner. The space shuttle presently under development will make the launching of satellites and laboratories less expensive and more productive. The shuttle will be augmented by the sortie laboratory which the Western European countries intend to develop as part of our joint cooperation in space.

The past year has also seen advances in aeronautical research and development. It should be emphasized that work in this field is particularly vital if America is to maintain its leadership in the development and production of civil and military aircraft and engines.

Our efforts in aeronautics and space will continue through programs balanced at levels which will allow us to meet demands in these and other important domestic and foreign areas.

RICHARD NIXON.

THE WHITE HOUSE, *March 19, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. HASKELL) laid before the Senate messages from

the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

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

EXECUTIVE PRIVILEGE AND MR. GRAY

Mr. ROBERT C. BYRD. Mr. President, the New York Times, on last Tuesday, March 13, 1973, printed excerpts from a statement issued on March 11 by President Nixon on Executive privilege. President Nixon therein referred to the doctrine as being "rooted in the Constitution" and as having been "well established."

He stated that it was "designed to protect communications within the executive branch," and that "without such protection, our military security, our relations with other countries, our law enforcement procedures and many other aspects of the national interest could be significantly damaged."

There could be considerable debate as to whether the doctrine of Executive privilege is "rooted in the Constitution." I do think that a case can be made for a very limited application of Executive privilege, on the basis that it is implied in the Constitution, because it may be necessary to the proper performance of the President's constitutional duties in fulfilling his responsibilities as Commander in Chief of the Nation's Armed Forces.

I do not question the application of such a doctrine where sensitive communications between the President himself and a member of his administration are concerned. I do question that such a privilege exists when the attempt is made to extend the doctrine to include communications between a member of the President's staff and third parties either in or out of the administration.

In any event, a case can probably be defended where communications with respect to military security or sensitive foreign relations are had between the President and a member of his staff or administration.

The President, in his March 11 statement, however, went far beyond such situations when he stated that:

> A member or former member of the President's personal staff normally shall follow the well-established precedent and decline a request for a formal appearance before a committee of the Congress.

In the first place, it is an exorbitant claim to attempt to extend the privilege to a former member of the President's staff, and I know of no reason whatsoever why the President should have referred to this doctrine as being a "well-established precedent."

I know of no precedent—let alone a "well-established" one—for the President to attempt to extend the doctrine of Executive privilege to a former member of his personal staff, nor do I know of any precedent which would allow the President to lay down a blanket immunity for members of his present staff from being required to appear in a formal session of a congressional committee when such committee seeks information on which to make a sound judgment regarding legislation or regarding a nomination or treaty.

The President stated that—

> Under the doctrine of separation of powers, the manner in which the President personally exercises his assigned executive powers is not subject to questioning by another branch of government.

But, by a strange twist of the imagination, the President went on to extend this immunity to the present and former members of his staff.

The whole trouble with this business is that the President is exerting some very extraordinary claims in connection with an affair that is entirely unworthy of application of the doctrine—even, if indeed, the doctrine could be admitted to exist in connection with communications between administration parties other than the President himself.

In the first place, the President's statement was issued at a time when, perhaps not entirely coincidentally, the Judiciary Committee in the Senate was expected to vote to invite the appearance of Mr. John W. Dean III, the President's attorney, to appear before the committee to answer questions bearing upon the qualifications of Mr. L. Patrick Gray III, to be Director of the FBI.

There is no question involving military security in such an appearance by Mr. Dean. There is no question involving sensitive relations with other countries. I think it is almost impossible to avoid the suspicion that someone at the White House, in preparing the statement for Mr. Nixon, was trying to cover up White House involvement in the ugly campaign of political sabotage and espionage which climaxed in the Watergate raid. Otherwise, why would the Executive privilege doctrine be invoked for former Presidential aides?

The President, in his statement on March 11, said:

> Executive privilege will not be used as a shield to prevent embarrassing information from being made available, but will be exercised only in those particular instances in which disclosure would harm the public interest.

It boggles the imagination to contend that the "public interest" could possibly be harmed in any way whatsoever by having White House aides—Mr. Dean, in particular—give sworn testimony on what they know about the Watergate affair or on how FBI reports may have been used to protect White House aides who may have been involved in the Watergate raid.

One wonders how the "public interest" could be harmed if Mr. Dean were questioned as to his working relationship in the White House to Charles Colson, who, at the time of the Watergate breakin, was special counsel to the President. Mr. Colson, it may be recalled, had recommended one of those persons convicted for the Watergate breakin—Mr. Howard Hunt. It was Mr. Colson that Mr. Ehrlichman called on June 17 last year in an effort to find Mr. Hunt when Mr. Ehrlichman had learned that Hunt may have been involved in the Watergate breakin.

One may wonder how the "public interest" could possibly be harmed by asking Mr. Dean questions with respect to the possible leaking of FBI information to Mr. Donald Segretti, such information having been supplied to Mr. Dean by Mr. Gray, and Mr. Segretti reportedly having said that a White House aide had shown him such information.

What "public interest" could conceivably be disserved by asking Mr. Dean questions in respect of his having held the properties of Mr. Howard Hunt in his, Mr. Dean's office, for 6 days before turning them over to the FBI, while in the meantime, Dean was being twice interviewed by the FBI, Dean knowing, all the while, that the FBI was investigating the case and that Mr. Hunt was one of those persons being investigated.

Could it be harmful to the "public interest" if Mr. Dean were asked about his connections with Mr. Gordon Liddy who was employed by the Committee for the Reelection of the President on the recommendation of Mr. Dean? It will be recalled that Liddy was one of those persons involved in the Watergate breakin.

Could the "public interest" be undermined if Mr. Dean were asked about the famous Dita Beard memorandum and how it got into the hands of the ITT last year, now that Mr. Gray has admitted that it was he who turned the memorandum over to Mr. Dean last March?

As to the President's statement that Executive privilege would not be used as a shield to prevent embarrassing information from being made available, one wonders whether the so-called privilege may indeed be undergoing an application here for the express purpose of shielding the administration from embarrassment.

To say that the privilege will not be used to prevent embarrassment, does not make it so. What else can the public believe, other than that the privilege is being invoked here in order to keep the lid on embarrassing information which would otherwise surface if Mr. Dean were to appear before the Judiciary Committee?

The President stated in his press conference on January 31 that the exercise of the privilege "should be determined on a case by case basis." What, then, is the case at hand? Why the claim for Executive privilege in this case?

The President said on March 11, that "What is at stake," in invoking Executive privilege, "is not simply a question of confidentiality, but the integrity of the decisionmaking process at the very highest levels of our Government."

Mr. President, what really is at stake in Mr. Dean's having declined the committee's invitation, would appear to be not the integrity of the decisionmaking process so much, but the integrity of some of the individuals who help to make the decisions which affect all of the people.

As to President Washington's having first invoked the concept of Executive privilege—to which President Nixon alluded—this was done to protect the confidentiality of certain diplomatic negotiations leading up to a treaty. Certainly, President Washington did not have such a sordid political intrigue in mind as the

Watergate affair when he invoked Executive privilege. That was the furthest thing from his mind.

I speak with all due deference to the President, and Senators will recall that I have supported many of his nominations. I can understand that the President may have every confidence in the people who work for him. Personally, I do not doubt the high integrity of most of the people who surround the President. Nevertheless, the invoking of the privilege in connection with Mr. Dean's refusal to appear before the Judiciary Committee does not remove the strong suspicions that the FBI investigation was conducted in such a way, with information being constantly fed to White House echelon people, as to possibly protect certain people within the administration. Nor does it remove the strong suspicions that continue to grow in the minds of people concerning the activities, in connection with the Watergate episode, that are possibly being protected by the wrongful application of Executive privilege. For when Executive privilege is resorted to in a situation which so apparently involves blatant political wrongdoing, the office of the President is demeaned, the Constitution is debased, and the people's confidence in their Government is eroded.

It is an anomalous situation when an administration that campaigned on the theme of law and order now asserts a doctrine—not to protect military security, not to protect our relations with other countries, not because disclosure would harm the public interests—but to protect that same administration from possible embarrassment, perhaps involving actions that were in contravention of the law. In any event, such ambitious claims to the right to secrecy are not only arbitrary and artificial, but they are also novel and specious. The application of the privilege doctrine is being based on what might otherwise be a sound principle with respect to security information, but the oddest thing about it is that, while it is being done in the name of sound and noble principles, those same sound and noble principles are being violated while they are being proclaimed.

In his press conference of last Thursday, March 15, the President stated that—

> The practice of the FBI in furnishing raw files to committees must stop with this particular one.

Curiously, the President made no reference to the furnishing of raw files by the FBI to White House aides. He made no reference to Mr. Gray's having supplied Mr. Dean with 82 of the 186 interview reports in connection with the Watergate investigation. He stated that—

> For the FBI to come before a full committee of the Congress to furnish raw files and then to have them leak out to the press, could do innocent people a great deal of damage.

The remarkable thing to note is that there is no evidence of the leakage of raw files, or any information in connection therewith, to the people as a result of such an offer by the FBI to the Judiciary Committee.

Moreover, the FBI has not furnished, nor has it offered to furnish, raw files "before a full committee of the Congress." The FBI's Acting Director offered to produce for any member of the Judiciary Committee any of the raw files in connection with the Watergate investigation, but only in the presence of FBI agents. To my knowledge, only two members of the committee have taken advantage of the offer even in a limited way.

Nowhere, in the President's statement during the press conference, did he refer to the furnishing of raw files to Mr. Dean and the later leakage of such information. Yet, we are told that there is an affidavit to the effect that Mr. Segretti stated that he had been shown FBI files by White House aides and, according to Mr. Gray's testimony, Mr. Dean was the only person at the White House who had possession of such raw files.

The President has made reference to Mr. Gray's being held "hostage" by the Judiciary Committee. Mr. Gray is not being held hostage. Mr. Gray's nomination is being considered by the Judiciary Committee, and his confirmation should be rejected or at least delayed until the committee is supplied with the information it needs on which to base its collective judgment concerning that nomination. The Senate has an equal role with that of the President in connection with the appointment of the Director of the FBI. The President nominates and the Senate gives its advice and consent to the confirmation of that nomination. This is an equal role accorded to the Senate by Federal statute, based upon the Constitution, in connection with this particular office now being considered. The Senate is entitled to the information that it needs. The Judiciary Committee would not be asking for Mr. Dean were it not for the fact that Mr. Gray's nomination is before it and certain questions have arisen which Mr. Gray is unable to answer and that can only be answered by Mr. Dean. Otherwise, the question of Mr. Dean's appearance before any Senate committee would have waited until an invitation or subpena is tended for his appearance by the Ervin Select Committee on the Watergate Investigation.

I have always been a strong supporter of the FBI, and nobody in the Senate has made stronger speeches on behalf of law and order all over the country than I have made. I shall continue to support the FBI, but I do not want to see that great law enforcement agency impaired in its morale or professionalism or efficiency by virtue of the appointment of a Director who is politically oriented or who is subservient to the White House, regardless of what political party is in power at any given time.

The FBI must remain nonpartisan and nonpolitical and nonsubservient. It must remain independent, and it must have an independent Director if it is to be an intelligence-gathering agency, independent politically.

I believe that the Senate should insist upon the submission of a nominee who will not be political, who has independence, who preferably has had some law enforcement experience, and who will be able to bolster morale and continue—and even improve upon—the past efficiency and professionalism for which the FBI has so long been noted.

This is the first occasion on which the Senate will exercise an advice and consent role in connection with the confirmation of the Director of the FBI. J. Edgar Hoover took the FBI out of politics, and the Senate ought to set the precedent here of insisting on a nominee who will keep the FBI out of politics.

I believe that the Senate must insist upon a full rounding out of the record if it is to meet its responsibility in its advice and consent role. The integrity of the Senate is at stake, and I feel that the Senate should not deviate from its insistence upon the appearance of Mr. Dean before the Judiciary Committee. For the Senate to accept anything less than the information it needs to resolve the questions that have been raised would be degrading to the Senate.

The President has stated that Mr. Dean will not appear. As far as I am concerned, the Senate ought to reject the nomination of Mr. Gray. I do not think that the Senate ought to have to stand, as it were, at the gates of the White House with its hat in its hands and beg, like Lazarus, for the crumbs of information that may be available to it through some tenuous and circuitous process of written answers and written questions. A piece of paper cannot be cross-examined. If the President wants to close the door on the supply of information, the Senate ought to close the door on the President's nominee.

I speak as a Democrat who, as I have noted, has supported most of the President's nominations. I supported all his nominees for the U.S. Supreme Court even when some of the members of his own party, for their own good reasons, did not see fit to support those nominees. I respect the President, but I do not support his position in this matter, nor do I agree with his viewpoint with regard to extending the doctrine of Executive privilege to the extremes to which it is being applied.

I have faith that the Senate will not stultify itself or demean itself by voting to confirm a nomination in a situation in which the White House acts to deprive it of the facts it needs to make a judgment thereon. The nomination ought to be rejected outright, with all due respect to Mr. Gray and, failing this, the nomination ought to be shelved at least until the results of the Watergate investigation are in.

The Nation is watching the Senate, and the Nation expects the Senate to do its duty. If the Senate expects to fulfill its constitutional role in a system of checks and balances, it will do its duty by refusing to confirm the President's nomination under the circumstances that surround this case.

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

editorial entitled "The President's Privilege," which appeared in today's Washington Post.

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

THE PRESIDENT'S PRIVILEGE

Even as he assert that his administration has "been more forthcoming" than any other in providing information to Congress, President Nixon is going to remarkable lengths to keep his counsel, John D. Dean III, and other White House staff members from coming forth to talk with the Senate. From the vehemence of Mr. Nixon's remarks about "executive privilege" at his press conference Thursday, an uninformed observer might think that the subject involved was nothing less pivotal to the national interest than war or peace. In fact, the subject is the sordid business of bankrolling political spying and sabotage. Mr. Nixon's tough statements amount to a declaration that if he can help it, nobody previously or currently employed by the White House during his administration is going to be quizzed about the sordid business under oath in any formal congressional hearing—now or ever.

It is a blunt political decision not to cooperate with the Senate's investigations of the Watergate case and related affairs, and of the White House role in the FBI's probe of those matters. Mr. Nixon has tried to dress up his decision in ill-fitting and off-the-point constitutional talk, but in order to encompass everyone and everything he intends to withhold from scrutiny, he has had to stretch principles so far that his position becomes transparent. It hardly matters that the proper sphere of executive privilege is some what ill-defined. For whatever nuances and niceties exist, all precedents and arguments in the field stop far short of what Mr. Nixon has attempted to propound: a total, permanent grant of immunity from outside interrogation for the office of the President and all who work therein.

It might be useful to recall exactly what the Senate Judiciary Committee and Senator Ervin's select committee would like to discuss with Mr. Dean—the White House counsel—and other present and former White House staff members, such as Dwight Chapin and Charles Colson. The senators are less concerned about communications between these individuals and the President than they are about the relationships between the aforementioned White House staff members and people outside the White House—Mr. Chapin's dealings with the shadowy political operative Donald Segretti, for instance, and Mr. Dean's intimate involvement in a number of aspects of the FBI's investigation of the Watergate case. Since none of the persons involved seems too anxious to be candid and "forthright," in Mr. Nixon's term, about such things, the legislators are understandably less than enchanted with the President's offer to "furnish information" under "certain circumstances." They would far prefer to seek their answers at a public hearing with the witneses under oath.

This is precisely what Mr. Nixon is trying to avoid. So, on March 12, he announced the novel proposition that since the roles of White House staff members "are in effect extensions of the presidency," neither present nor former staff members may be interrogated by Congress about the "advice and assistance" which they give the President. This assertion transports executive privilege far from its normal, justifiable sphere—the substance of confidential communications between a chief executive and his closest advisers—and makes the shield a new fringe benefit of service on the White House staff.

This raises a couple of puzzling questions. It is based on the assumption that White House staff members have no independent existence at all, and that everything they may say and do, including every aspect of their relationships with federal agencies outside the White House and people outside the government itself, constitutes an "extension of the presidency." Does this mean that having Mr. Dean monitor FBI interviews is equivalent to conducting those interviews in the Oval Office, with Mr. Nixon as a kibitzer? Does this mean that when Mr. Chapin promoted Mr. Segretti's career, he was acting as a surrogate for the President? Is *that* the inference we are to draw? The issue of Mr. Nixon's personal involvement or lack of it in the whole sleazy affair has been lying around awaiting an answer for months now. Ironically, by trying to keep his staff from being questioned in this manner, Mr. Nixon has only made the question loom larger.

The matter of proper roles is doubly interesting in Mr. Dean's case. The President said on Thursday that Mr. Dean, in addition to being "counsel to the White House," was also "counsel to a number of people on the White House staff" and therefore "has, in effect, what I would call a double privilege, the lawyer-counsel relationship, as well as the presidential privilege." But does this mean that the interests of all of his "clients" are identical? In what capacity was he acting when he reviewed those FBI reports concerning activities of the committee to reelect Mr. Nixon? The only way to clear up the confusion is through public testimony by Mr. Dean. Given the nature of the case, his appearance would hardly set a precedent for congressional summoning of presidential counsels on matters properly within the confidential realm.

The ultimate in double think is Mr. Nixon's claim of an administration "pledged to openness." Last Monday he declared:

"Executive privilege will not be used as a shield to prevent embarrassing information from being made available but will be exercised only in those particular instances in which disclosure would harm the public interest."

His actions are a reversal of his words.

ORDER OF BUSINESS

Mr. ROBERT C. BYRD. Mr. President, do I have any time remaining?

The ACTING PRESIDENT pro tempore. The Senator from West Virginia has 4 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I yield whatever time remains under the order to the distinguished Senator from Michigan if he would like to utilize it.

Mr. GRIFFIN. Mr. President, I would like to yield back the time for today and advise the distinguished acting majority leader that I would like to have time on tomorrow.

Mr. ROBERT C. BYRD. Mr. President, that order has already been entered.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order there will now be a period for the transaction of routine morning business not to exceed 30 minutes with the statements limited therein to 3 minutes each. Is there any morning business?

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the call.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

PROPOSED LEGISLATION FROM OFFICE OF TELECOMMUNICATIONS POLICY

A letter from the Director, Office of Telecommunications Policy, Executive Office of the President, transmitting a draft of proposed legislation to amend the Communications Act of 1934 to provide that licenses for the operation of a broadcast station shall be issued for a term of 5 years, and to establish orderly procedures for the consideration of applications for the renewal of such licenses (with accompanying papers); to the Committee on Commerce.

PROPOSED LEGISLATION FROM SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to establish a national policy relating to conversion to the metric system in the United States (with an accompanying paper); to the Committee on Commerce.

PROPOSED LEGISLATION FOR THE DISTRICT OF COLUMBIA

A letter from the Commissioner of the District of Columbia transmitting a draft of proposed legislation to revise the real and personal property tax exemption laws of the District of Columbia, and for other purposes (with accompanying papers); to the Committee on the District of Columbia.

STATE AND LOCAL FISCAL ASSISTANCE

A letter from the Secretary of the Treasury reporting, pursuant to law, on the progress of the Treasury Department under the State and Local Fiscal Assistance Act of 1972 (with an accompanying report); to the Committee on Finance.

REPORT OF THE FOREIGN-TRADE ZONES BOARD

A letter from the Secretary of Commerce transmitting, pursuant to law, the annual report of the Foreign-Trade Zones Board for the fiscal year ended June 30, 1972 (with an accompanying report); to the Committee on Finance.

AGREEMENTS BETWEEN THE UNITED STATES AND OTHER COUNTRIES

A letter from the Assistant Legal Adviser for Treaty Affairs of the Department of State transmitting, pursuant to law, international agreements other than treaties entered into by the United States (with accompanying papers); to the Committee on Foreign Relations.

REPORT OF THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

A letter from the Administrator of the National Aeronautics and Space Administration reporting pursuant to law, on the disposal of certain foreign excess property; to the Committee on Government Operations.

REPORT ON REVIEW OF PREPOSITIONED EQUIPMENT TO EUROPE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a secret report on review of prepositioned equipment in Europe (with an accompany-

ing report); to the Committee on Government Operations.

APPENDIX VII OF THE REPORT TO CONGRESS ON U.S. INTERESTS AND ACTIVITIES IN NEPAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, Appendix VII of the Report to the Congress on U.S. Interests and Activities in Nepal (confidential) (with an accompanying document); to the Committee on Government Operations.

PROPOSED LEGISLATION OF THE ATTORNEY GENERAL

A letter from the Attorney General transmitting proposed legislation entitled "The Law Enforcement Revenue Sharing Act of 1973" (with accompanying papers); to the Committee on the Judiciary.

REPORTS RELATING TO THIRD PREFERENCE AND SIXTH PREFERENCE CLASSIFICATION FOR CERTAIN ALIENS

A letter from the Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, reports relating to third preference and sixth preference classification for certain aliens (with accompanying reports); to the Committee on the Judiciary.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

H.R. 3298. An act to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act (Rept. No. 93–77), together with minority views.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

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

S. 1272. A bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution. Referred to the Committe on the Judiciary.

By Mr. FONG:

S. 1273. A bill for the relief of Antoinette Hazel Gopaul;

S. 1274. A bill for the relief of Felicidad Balingatan;

S. 1275. A bill for the relief of Renato Geliza Ramil; and

S. 1276. A bill for the relief of Joe H. Morgan. Referred to the Committee on the Judiciary.

By Mr. METCALF:

S. 1277. A bill relating to the sale of certain timber, cord wood, and other forest products. Referred to the Committee on In-

S. 1278. A bill to provide for the appointment of several officials of the Congress by the Speaker of the House of Representatives or the President pro tempore of the Senate. Referred to the Committee on Rules and Administration.

By Mr. HART:

S. 1279. A bill to amend the act of June 16, 1933, as amended. Referred to the Committee on the Judiciary.

By Mr. THURMOND:

S. 1280. A bill for the relief of Gert Richterior and Insular Affairs.

ard Heber. Referred to the Committee on the Judiciary.

By Mr. BAYH:

S. 1281. A bill relating to the allowance of a depreciation deduction. Referred to the Committee on Finance.

By Mr. JACKSON:

S. 1282. A bill to amend titles 10 and 32, United States Code, to authorize additional medical and dental care and other related benefits for reservists and members of the National Guard, under certain conditions, and for other purposes. Referred to the Committee on Armed Services.

By Mr. JACKSON (for himself, Mr. RANDOLPH, Mr. MAGNUSON, Mr. MANSFIELD, Mr. PASTORE, Mr. BIBLE, Mr. CHURCH, Mr. EASTLAND, Mr. MCCLELLAN, Mr. ROBERT C. BYRD, Mr. HUMPHREY, Mr. CANNON, Mr. MOSS, Mr. HATFIELD, Mr. MCGEE, Mr. SYMINGTON, Mr. INOUYE, Mr. STEVENS, Mr. BAYH, Mr. WILLIAMS, Mr. HASKELL, Mr. EAGLETON, Mr. TUNNEY, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. COOK, Mr. MCGOVERN, and Mr. BENTSEN):

S. 1283. A bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. SPARKMAN:

S. 1284. A bill for the relief of Cecil A. Donaldson and Liselotte Donaldson. Referred to the Committee on the Judiciary.

By Mr. McGOVERN:

S. 1285. A bill to prohibit the inspection of farmers' income tax returns by the Department of Agriculture for the purpose of gathering data for statistical purposes. Referred to the Committee on Finance.

By Mr. HARTKE:

S. 1286. A bill to provide for national growth policy planning, and for other purposes. Referred to the Committee on Government Operations.

By Mr. KENNEDY:

S. 1287. A bill to extend diplomatic privileges and immunities to the Liaison Office of the People's Republic of China and to members thereof, and for other purposes. Referred to the Committee on Foreign Relations.

By Mr. BROOKE:

S. 1288. A bill for the relief of Style Leather Company, Incorporated; and

S. 1289. A bill for the relief of Frederick F. Slack. Referred to the Committee on the Judiciary.

By Mr. MATHIAS:

S. 1290. A bill for the relief of Shaleen Rushd;

S. 1291. A bill for the relief of Abu Sayeed Kamal; and

S. 1292. A bill for the relief of Enriqueta M. Par. Referred to the Committee on the Judiciary.

By Mr. BROOKE:

S. 1293. A bill to create a National Historic Records Commission, to establish a program for preserving and making accessible documentary resources throughout the Nation, and for other purposes. Referred to the Committee on Government Operations.

By Mr. TOWER:

S. 1294. A bill to authorize the Secretary of the Interior to construct, operate, and maintain the Nueces River reclamation project, Tex., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. TOWER (for himself, Mr. HANSEN, and Mr. STEVENS):

S. 1295. A bill to provide a tax credit for expenditures made in the exploration and development of new reserves of oil and gas in the United States. Referred to the Committee on Finance.

By Mr. McINTYRE:

S.J. Res. 79. Joint resolution relating to World War I Veterans Day. Referred to the Committee on the Judiciary.

By Mr. ROTH (for himself, Mr. BAYH, Mr. BENNETT, Mr. CANNON, Mr. DOMENICI, Mr. DOMINICK, Mr. ERVIN, Mr. HOLLINGS, Mr. HUMPHREY, Mr. MCGEE, Mr. MCINTYRE, Mr. PASTORE, Mr. PELL, Mr. SCOTT of Pennsylvania, Mr. TALMADGE, Mr. THURMOND, and Mr. YOUNG):

S.J Res. 80. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month." Referred to the Committee on the Judiciary.

By Mr. SCHWEIKER:

S.J. Res. 81. A joint resolution to authorize and request the President to issue annually a proclamation designating the week beginning on the third Sunday of October of each year as "National Drug Abuse Prevention Week." Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

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

S. 1272. A bill to provide procedures for calling constitutional conventions for proposing amendments to the Constitution of the United States, on application of the legislatures of two-thirds of the States, pursuant to article V of the Constitution. Referred to the Committee on the Judiciary.

INTRODUCTION OF THE FEDERAL CONSTITUTIONAL CONVENTION PROCEDURES BILL

Mr. ERVIN. Mr. President, today, I am once again introducing the Federal constitutional convention procedures bill, whose purpose is to establish procedures for calling a constitutional convention for proposing amendments to the Constitution of the United States upon application of two-thirds of the States, pursuant to article V of the Constitution. I have introduced this measure because I believe it to be of great importance to this Nation. The need for this legislation exists today as it did when I first introduced it in 1967, and I believe it may exist with even greater urgency in the future.

As you may recall, this bill passed the Senate in the 92d Congress by a vote of 84 to 0. It then went to the House, where, I regret to say, it was not reported out of committee. Nonetheless, I have never wavered in my firm belief that this measure will be enacted into law, for its need must be apparent to all who have seriously considered the constitutional questions involved.

Amending the Constitution of the United States is not a matter to be undertaken lightly or to be carried out in a careless, haphazard, or reckless manner. All of us are aware that since our country was formed, many hundreds of applications have been submitted to the Congress by the States asking for a constitutional convention to propose amend-

ments to the Constitution for one purpose or another. The reapportionment controversy of several years ago resulted in a total of 33 such petitions, lacking only one State to make requisite the calling of a convention. Other issues have generated large numbers of petitions. Thus far, however, no issue has generated petitions from the two-thirds of the States necessary to require the calling of a constitutional convention. I think this is a very good thing, for if a convention had been called as required by the Constitution, under the present state of the law no one would have known how the convention should be conducted or what rules it should follow.

What if some issue of national policy should become so compelling in the view of the States that two-thirds of them did petition for a constitutional convention? A convention would surely be called, as article V of the Constitution dictates. But what then? How would the convention be conducted? Where would it be held? Could it be delayed, and, if so, how long? How would the delegates be selected? Would there be a restriction on the subject of amendments or would the convention have a free hand to rewrite the Constitution? How long would the application be valid? Could a State rescind its application? Who would decide which applications are valid? How would a vacancy in the delegates be filled? How would the expenses be paid? Who decides questions in controversy? If Congress did not like the amendment, would it have the power to thwart the intent of the convention? By what method would the States ratify a proposed amendment? May a State rescind its ratification? If ratified, when would the amendment become effective?

These questions and many more remain unanswered. My bill undertakes to provide reasoned answers. The bill is completely nonpartisan; its enactment would fill a serious gap in our governmental process. Perhaps its procedures would not be used for many years. Indeed, it is not possible to predict whether they will ever be used—or whether their use may become necessary before this session of Congress has ended. However that may be, lawful, orderly procedures should be available immediately in the event they are needed.

The bill I introduce today is exactly like S. 215, the bill that passed the Senate in the 92d Congress. It includes the one amendment that was offered on the floor of the Senate and adopted when S. 215 passed, requiring a two-thirds vote of the delegates rather than a simple majority vote, which was provided in my original bill.

I urge the Members of the Senate again to support this measure.

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

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

S. 1272

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 "Federal Constitutional Convention Procedures Act".

APPLICATIONS FOR CONSTITUTIONAL CONVENTION

SEC. 2. The legislature of a State, in making application to the Congress for a constitutional convention under article V of the Constitution of the United States on and after the enactment of this Act, shall adopt a resolution pursuant to this Act stating, in substance, that the legislature requests the calling of a convention for the purpose of proposing one or more amendments to the Constitution of the United States and stating the nature of the amendment or amendments to be proposed.

APPLICATION PROCEDURE

SEC. 3. (a) For the purpose of adopting or rescinding a resolution pursuant to section 2 and section 5, the State legislature shall follow the rules of procedure that govern the enactment of a statute by that legislature, but without the need for approval of the legislature's action by the Governor of the State.

(b) Questions concerning the adoption of a State resolution cognizable under this Act shall be determinable by the Congress of the United States and its decisions thereon shall be binding on all others, including State and Federal courts.

TRANSMITTAL OF APPLICATIONS

SEC. 4. (a) Within thirty days after the adoption by the legislature of a State of a resolution to apply for the calling of a constitutional convention, the secretary of state of the State, or if there be no such officer, the person who is charged by the State law with such function, shall transmit to the Congress of the United States two copies of the application, one addressed to the President of the Senate, and one to the Speaker of the House of Representatives.

(b) Each copy of the application so made by any State shall contain—

(1) the title of the resolution;

(2) the exact text of the resolution signed by the presiding officer of each house of the State legislature; and

(3) the date on which the legislature adopted the resolution; and shall be accompanied by a certificate of the secretary of state of the State, or such other person as is charged by the State law with such function, certifying that the application accurately sets forth the text of the resolution.

(c) Within ten days after receipt of a copy of any such application, the President of the Senate and Speaker of the House of Representatives shall report to the House of which he is presiding officer, identifying the State making application, the subject of the application, and the number of States then having made application on such subject. The President of the Senate and Speaker of the House of Representatives shall jointly cause copies of such application to be sent to the presiding officer of each house of the legislature of every other State and to each Member of the Senate and House of Representatives of the Congress of the United States.

EFFECTIVE PERIOD OF APPLICATION

SEC. 5. (a) An application submitted to the Congress by a State, unless sooner rescinded by the State legislature, shall remain effective for seven calendar years after the date it is received by the Congress, except that whenever within a period of seven calendar years two-thirds or more of the several States have each submitted an application calling for a constitutional convention on the same subject all such applications shall remain in effect until the Congress has taken action on a concurrent resolution, pursuant to section 6, calling for a constitutional convention.

(b) A State may rescind its application calling for a constitutional convention by adopting and transmitting to the Congress a resolution of rescission in conformity with the procedure specified in sections 3 and 4, except that no such rescission shall be effective as to any valid application made for a constitutional convention upon any subject after the date on which two-thirds or more of the State legislatures have valid applications pending before the Congress seeking amendments on the same subject.

(c) Questions concerning the rescission of a State's application shall be determined solely by the Congress of the United States and its decisions shall be binding on all others, including State and Federal courts.

CALLING OF A CONSTITUTIONAL CONVENTION

SEC. 6. (a) It shall be the duty of the Secretary of the Senate and the Clerk of the House of Representatives to maintain a record of all applications received by the President of the Senate and Speaker of the House of Representatives from States for the calling of a constitutional convention upon each subject. Whenever applications made by two-thirds or more of the States with respect to the same subject have been received, the Secretary and the Clerk shall so report in writing to the officer to whom those applications were transmitted, and such officer thereupon shall announce on the floor of the House of which he is an officer the substance of such report. It shall be the duty of such House to determine that there are in effect valid applications made by two-thirds of the States with respect to the same subject. If either House of the Congress determines, upon a consideration of any such report or of a concurrent resolution agreed to by the other House of the Congress, that there are in effect valid applications made by two-thirds or more of the States for the calling of a constitutional convention upon the same subject, it shall be the duty of that House to agree to a concurrent resolution calling for the convening of a Federal constitutional convention upon that subject. Each such concurrent resolution shall (1) designate the place and time of meeting of the convention, and (2) set forth the nature of the amendment or amendments for the consideration of which the convention is called. A copy of each such concurrent resolution agreed to by both Houses of the Congress shall be transmitted forthwith to the Governor and to the presiding officer of each house of the legislature of each State.

(b) The convention shall be convened not later than one year after adoption of the resolution.

DELEGATES

SEC. 7. (a) A convention called under this Act shall be composed of as many delegates from each State as it is entitled to Senators and Representatives in Congress. In each State two delegates shall be elected at large and one delegate shall be elected from each congressional district in the manner provided by State law. Any vacancy occurring in a State delegation shall be filled by appointment of the Governor of that State.

(b) The secretary of state of each State, or, if there be no such officer, the person charged by State law to perform such function shall certify to the Vice President of the United States the name of each delegate elected or appointed by the Governor pursuant to this section.

(c) Delegates shall in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at a session of the convention, and in going to and returning from the same; and for any speech or debate in the convention they shall not be questioned in any other place.

(d) Each delegate shall receive compensation for each day of service and shall be compensated for traveling and related ex-

penses. Provision shall be made therefor in the concurrent resolution calling the convention. The convention shall fix the compensation of employees of the convention.

CONVENING THE CONVENTION

SEC. 8. (a) The Vice President of the United States shall convene the constitutional convention. He shall administer the oath of office of the delegates to the convention and shall preside until the delegates elect a presiding officer who shall preside thereafter. Before taking his seat each delegate shall subscribe to an oath by which he shall be committed during the conduct of the convention to refrain from proposing or casting his vote in favor of any proposed amendment to the Constitution of the United States relating to any subject which is not named or described in the concurrent resolution of the Congress by which the convention was called. Upon the election of permanent officers of the convention, the names of such officers shall be transmitted to the President of the Senate and the Speaker of the House of Representatives by the elected presiding officer of the convention. Further proceedings of the convention shall be conducted in accordance with such rules, not inconsistent with this Act, as the convention may adopt.

(b) There is hereby authorized to be appropriated such sums as may be necessary for the payment of the expenses of the convention.

(c) The Administrator of General Services shall provide such facilities, and the Congress and each executive department and agency shall provide such information and assistance, as the convention may require, upon written request made by the elected presiding officer of the convention.

PROCEDURES OF THE CONVENTION

SEC. 9. (a) In voting on any question before the convention, including the proposal of amendments, each delegate shall have one vote.

(b) The convention shall keep a daily verbatim record of its proceedings and publish the same. The vote of the delegates on any question shall be entered on the record.

(c) The convention shall terminate its proceedings within one year after the date of its first meeting unless the period is extended by the Congress by concurrent resolution.

(d) Within thirty days after the termination of the proceedings of the convention, the presiding officer shall transmit to the Archivist of the United States all records of official proceedings of the convention.

PROPOSALS OF AMENDMENTS

SEC. 10. (a) Except as provided in subsection (b) of this section a convention called under this Act may propose amendments to the Constitution by a vote of two-thirds of the total number of delegates to the convention.

(b) No convention called under this Act may propose any amendment or amendments of a nature different from that stated in the concurrent resolution calling the convention. Questions arising under this subsection shall be determined solely by the Congress of the United States and its decisions shall be binding on all others including State and Federal courts.

APPROVAL BY THE CONGRESS AND TRANSMITTAL TO THE STATES FOR RATIFICATION

SEC. 11. (a) The presiding officer of the convention shall, within thirty days after the termination of its proceedings, submit to the Congress the exact text of any amendment or amendments agreed upon by the convention.

(b) (1) Whenever a constitutional convention called under this Act has transmitted to the Congress a proposed amendment to the Constitution, the President of the Senate and the Speaker of the House of Representatives, acting jointly, shall transmit such amendment to the Administrator of General Services upon the expiration of the first period of ninety days of continuous session of the Congress following the date of receipt of such amendment unless within that period both Houses of the Congress have agreed to (A) a concurrent resolution directing the earlier transmission of such amendment to the Administrator of General Services and specifying in accordance with article V of the Constitution the manner in which such amendment shall be ratified, or (B) a concurrent resolution stating that the Congress disapproves the submission of such proposed amendment to the States because such proposed amendment relates to or includes a subject which differs from or was not included among the subjects named or described in the concurrent resolution of the Congress by which the convention was called, or because the procedures followed by the convention in proposing the amendment were not in substantial conformity with the provisions of this Act. No measure agreed to by the Congress which expresses disapproval of any such proposed amendment for any other reason, or without a statement of any reason, shall relieve the President of the Senate and the Speaker of the House of Representatives of the obligation imposed upon them by the first sentence of this paragraph.

(2) For the purposes of paragraph (1) of this subsection, (A) the continuity of a session of the Congress shall be broken only by an adjournment of the Congress sine die, and (B) the days on which either House is not in session because of an adjournment of more than three days to day certain shall be excluded in the computation of the period of ninety days.

(c) Upon receipt of any such proposed amendment to the Constitution, the Administrator shall transmit forthwith to each of the several States a duly certified copy thereof, a copy of any concurrent resolution agreed to by both Houses of the Congress which prescribes the time within which and the manner in which such amendment shall be ratified, and a copy of this Act.

RATIFICATION OF PROPOSED AMENDMENTS

SEC. 12. (a) Any amendment proposed by the convention and submitted to the States in accordance with the provisions of this Act shall be valid for all intents and purposes as part of the Constitution of the United States when duly ratified by three-fourths of the States in the manner and within the time specified.

(b) Acts of ratification shall be by convention or by State legislative action as the Congress may direct or as specified in subsection (c) of this section. For the purpose of ratifying proposed amendments transmitted to the States pursuant to this Act the State legislatures shall adopt their own rules of procedure. Any State action ratifying a proposed amendment to the Constitution shall be valid without the assent of the Governor of the State.

(c) Except as otherwise prescribed by concurrent resolution of the Congress, any proposed amendment to the Constitution shall become valid when ratified by the legislatures of three-fourths of the several States within seven years from the date of the submission thereof to the States, or within such other period of time as may be prescribed by such proposed amendment.

(d) The secretary of state of the State, or if there be no such officer, the person who is charged by State law with such function, shall transmit a certified copy of the State action ratifying any proposed amendment to the Administrator of General Services.

RESCISSION OF RATIFICATIONS

SEC. 13. (a) Any State may rescind its ratification of a proposed amendment by the same processes by which it ratified the proposed amendment, except that no State may rescind when there are existing valid ratifications of such amendment by three-fourths of the States.

(b) Any State may ratify a proposed amendment even though it previously may have rejected the same proposal.

(c) Questions concerning State ratification or rejection of amendments proposed to the Constitution of the United States, shall be determined solely by the Congress of the United States, and its decisions shall be binding on all others, including State and Federal courts.

PROCLAMATION OF CONSTITUTIONAL AMENDMENTS

SEC. 14. The Administrator of General Services, when three-fourths of the several States have ratified a proposed amendment to the Constitution of the United States, shall issue a proclamation that the amendment is a part of the Constitution of the United States.

EFFECTIVE DATE OF AMENDMENTS

SEC. 15. An amendment proposed to the Constitution of the United States shall be effective from the date specified therein or, if no date is specified, then on the date on which the last State necessary to constitute three-fourths of the States of the United States, as provided for in article V, has ratified the same.

By Mr. METCALF:

S. 1277. A bill relating to the sale of certain timber, cord wood, and other forest products. Referred to the Committee on Interior and Insular Affairs.

SALE OF MATERIAL ON PUBLIC LANDS

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill to amend chapter 15 of the Mining Lands and Mining Laws, 30 U.S. Code 601–604, and related laws. This act provides general authority to sell a wide variety of mineral and vegetative materials from public lands, including such Federal holdings as the national forests. It authorizes large competitive sales and deals also with regulation of vegetative materials—everything from ferns to timber.

For a number of reasons these acts need to be modernized and that is one purpose of my bill. Another is to improve the ability of the Bureau of Land Management and the Forest Service to make small sales of forest products, especially on a semicompetitive or on a negotiated basis.

One special area of concern to me is improvement in the sale of salvage forest products on the public lands. For example, the Forest Service has a $2,000 limit on the sale of salvage forest products by other than advertised competitive sales. However, the authority in title 30 of the United States Code permits the sale of up to 250,000 board feet of timber by other than an advertised sale. The Forest Service cannot use the authority in title 30 as written.

On the other hand, there is a wide variation in the value that 250,000 board feet of timber may have in Montana, Washington, or Arizona. My bill seeks to make these authorities consistent. In addition, it seeks to give the land management agencies the opportunity to review the service they ought to be giving to smaller producers of common varieties of materials and minerals, various vegetative products and timber to improve resource utilization and better

meet their obligation to the small businessman.

Last fall I met with a number of very small forest producers. Because they have severely limited capital they can purchase only small sales.

They described to me the numerous opportunities to comb the forest—either following up after a large timber sale—or picking up small clumps of dead, dying, or diseased trees.

Such sales are now limited by law and regulation and by procedures which make them more costly to the agencies to process than they ought to be. They also impose burdens on the small gypo logger that reduce his chance to break even.

In the broader and larger picture of timber supply and demand, these sales are not going to change the national picture. However, they could transform the present marginal operator into a taxpaying small businessman while contributing as well to forest improvement.

We need to keep in mind that some trees are affected by a disease that may damage part of them and that other trees die naturally, singly or in clumps. The salvage sale is thus an important tool in efficient forest management, for it is selection cutting of a sort that ought to be encouraged.

I expect to schedule the bill for early consideration by the Interior Subcommittee on Minerals, Materials and Fuels. The bill would provide for a $5,000 top limit on small negotiated sales and in the case of forest products, a 250,000 board feet limit, whichever is less. I hope the hearings will develop whether this is the best way to encourage this program, while providing sensible limits. I hope that the Forest Service will be prepared to discuss its current $300 limit on a single green slip sale. The agencies should be prepared to address the issue of proper pricing.

While I have not included in the bill a provision to amend the reporting requirements in 30 United States Code 602(b), I would be interested in views on how these can be simplified with adequate protection to the public interest. Finally, agencies can suggest ways to improve the on-the-ground service to small operators while getting the maximum in forest management benefits.

By Mr. HART:

S. 1279. A bill to amend the act of June 16, 1933, as amended. Referred to the Committee on the Judiciary.

Mr. HART. Mr. President, during the last Congress, S. 2651—a bill to permit commercial banks to underwrite water and sewer revenue bonds—was referred to the Committee on the Judiciary and then to the Antitrust Monopoly Subcommittee. The bill raised significant antitrust questions, which, it was agreed by all concerned, were properly reviewable by the Antitrust Subcommittee.

In preparation for hearings, the subcommittee staff obtained the views of scores of people representing divergent interests on this important issue: dealer and nondealer banks, nonbank dealers, issuers, State and Federal governmental agencies, public interest groups, and other professional and trade organizations and associations. A detailed questionnaire eliciting information designed to assess the nature and extent of competition and the structural and operational characteristics of the industry was sent to major bank and nonbank dealers.

Unfortunately, we had to cancel the scheduled hearings at the last minute because of the unexpectedly extensive hearings before the full committee on the confirmation of Attorney General Richard G. Kleindienst. The recesses for the national conventions were soon before us, the subcommittee never quite caught up with its hearing schedule.

A preliminary review of the questionnaire responses, Mr. President, suggest questions which deserve study by this subcommittee. In order to finish the task commenced last Congress, Mr. President, I am today introducing a bill identical to S. 2651. While I take no position on its merits, antitrust questions are raised which require examination and hearings by the Antitrust and Monopoly Subcommittee.

By Mr. BAYH:

S. 1281. A bill relating to the allowance of a depreciation deduction. Referred to the Committee on Finance.

Mr. BAYH. Mr. President, I am introducing today an amendment to section 167 of the Internal Revenue Code which is designed to repeal the asset depreciation range system which was adopted by administrative regulations of the Treasury in 1971 and subsequently modified in the Revenue Act of 1971. At the time the Treasury took this action, I indicated that I was convinced that it had exceeded its administrative authority, and I testified to this effect in public hearings held by the Department. I continue to feel that this was an illegal usurpation of congressional authority. As most of the Members of the Senate no doubt recall, there was extensive debate in this Chamber in 1971 when the ADR system was first proposed by the President, and on November 15, 1971 the Senate came within one vote of adopting the measure which I am again proposing today.

Just as I predicted in 1971 the asset depreciation range system has already cost the Government and the individual taxpayers of the Nation billions in lost revenue. In the fiscal year 1974 this loss will amount to $2.4 billion, a sum which would go a long way toward funding many of those social programs which the administration tells us we cannot afford. Unless the Congress is willing to act, the ADR system will continue to result in vast revenue losses. It is estimated that by 1980 these losses will have mounted to $30.6 billion, and by 1990 to $49.9 billion. I would like to review for the Senate the reasons why I feel the ADR is totally unjustified and is nothing short of welfare payments by the Government to the Nation's giant corporate interests.

Basically the ADR system permits a corporate taxpayer to depreciate assets over a period arbitrarily selected by him within a range from 20 percent above or below the present Treasury guidelines on useful lives. The effect was thus to abandon a concept which had been an integral part of the tax laws for 40 years—namely, that deductions for depreciation of capital assets must be based on the actual useful life of the asset. As soon as you depart from this concept and allow tax depreciation to exceed economic depreciation, the owners of property producing taxable income are in effect receiving "welfare payments" which serve no public purpose. There is no mathematical difference between giving an individual or business a direct handout and forgiving him a like amount in taxes due. Both are an equally weighty drain on the public purse. If the President of the United States wants to reduce welfare payments, as do we all, let him start in the corporate board rooms of America.

Mr. President, I would like to make the following points about the ADR system by way of explanation as to why I feel as strongly as I do about the necessity for its abolition.

In announcing the ADR system in January of 1971, President Nixon stated that:

> A liberalization of depreciation allowances is essentially a change in the timing of a tax liability.

This statement is mistaken. It represents a confusion between the consequences of a "liberalization" in depreciation for a single asset or assets of a single year or even a limited number of years and the permanent "liberalization" established by ADR. As I have indicated, our best estimate is that by 1980 the ADR system will have resulted in a $30 billion permanent loss to the Treasury. Thus, whatever one's view of the economic consequences of the asset depreciation range system, there should be no mistake about its arithmetic. It is not a change in the timing of tax payments. It is not a matter of reducing payments now in return for tax liabilities in the future. It represents a repeating and accumulating loss in tax revenues year after year, a loss which will ultimately grow along with the general rate of growth of the economy and in particular the rate of growth in equipment subject to tax depreciation.

The major rationale which has been put forward by the administration to justify its adoption of ADR is that it will stimulate investment and therefore the economy generally. Most experts in this area, however, do not agree that this is necessarily the case. Prof. Robert Eisner of Northwestern University who has spent many years studying the subject of asset depreciation stated recently in testimony before the House Ways and Means Committee that:

> There is little evidence that "liberalization" of depreciation allowances of this type will have much effect on investment.

Moreover, Professor Eisner went on to note that:

> If the objective were to increase investment spending, economic analysis makes clear that a far more effective device, dollar for dollar of tax loss to the Treasury, would be some form of direct investment subsidy or tax credit.

I am a firm believer in the view that direct Government intervention in the private markets of our economy as is involved with the ADR system is justified

only when there is a clear indication that these markets are not functioning appropriately and that such interference is called for in the public interest. We would face a different situation if ADR really had a beneficial effect on the economy and really created new jobs. But a fair economic analysis shows that this is not so.

It has also been suggested by supporters of the ADR system that it is necessary to enable American industry to compete on an equal footing with foreign manufacturers. I am convinced that this argument is also without merit. It is an economic truism that as long as exchange rates are reasonably appropriate, a nation will find itself exporting those goods in which it has a comparative cost advantage and importing those goods at which it is at a comparative disadvantage. Since the total capital available remains the same, a tax subsidy to capital-intensive industries can only give them a comparative advantage over less capital-intensive industries. We then are likely to find ourselves not necessarily increasing total exports but exporting more of those products that receive the largest ADR tax subsidies and less of those products which are not capital intensive such as agricultural products. In any event the American people should not be required to bear this enormous tax burden on the slight chance that it may have some marginal effect on the Nation's balance of payments.

In the face of scarce tax dollars and serious public needs, the asset depreciation range system diverts Treasury revenues to areas where there is the least reason to believe that they are needed or produce any significant public benefit.

The corporate interests that benefit from the ADR system are well represented in this administration and that power has cost the American working man billions of dollars. It is time for those of us in the Congress to firmly assert the interests of those millions of middle class working Americans who have been the victims of this kind of tax policy. Unless we can convince the great majority of Americans that our political system is responsive to their needs, that they are partakers and participants in their Government rather than its victims, the future of the Nation will be uncertain indeed.

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

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

S. 1281

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (a) of section 167 of the Internal Revenue Code of 1954 (relating to depreciation) is revised to read as follows:

"(a) GENERAL RULE.—There shall be allowed as a depreciation deduction a reasonable allowance for the exhaustion, wear and tear (including a reasonable allowance for obsolescence)—

"(1) of property used in the trade or business, or

"(2) of property held for the production of income.

The depreciation deduction shall be based upon the estimated useful life to the taxpayer of property described in paragraph (1) or (2) of this subsection, and shall take into account the estimated salvage value to the taxpayer of such property."

SEC. 2. Section 167(m)(1) is amended by adding at the end thereof the following sentence:

"The preceding sentence shall not apply to property placed in service in any taxable year beginning after December 31, 1973."

SEC. 3. The amendment made by subsection (a) of this Act shall apply to taxable years ending after the date of the enactment of this Act, but shall not apply to property placed in service by the taxpayer on or before such date if an election is made to have the provisions of section 167(m) apply to such property.

By Mr. JACKSON (for himself, Mr. RANDOLPH, Mr. MAGNUSON, Mr. MANSFIELD, Mr. PASTORE, Mr. BIBLE, Mr. CHURCH, Mr. EASTLAND, Mr. MCCLELLAN, Mr. ROBERT C. BYRD, Mr. HUMPHREY, Mr. CANNON, Mr. MOSS, Mr. HATFIELD, Mr. MCGEE, Mr. SYMINGTON, Mr. INOUYE, Mr. STEVENS, Mr. BAYH, Mr. WILLIAMS, Mr. HASKELL, Mr. EAGLETON, Mr. TUNNEY, Mr. JOHNSTON, Mr. HUDDLESTON, Mr. COOK, Mr. MCGOVERN, and Mr. BENTSEN):

S. 1283. A bill to establish a national program for research, development, and demonstration in fuels and energy and for the coordination and financial supplementation of Federal energy research and development; to establish development corporations to demonstrate technologies for shale oil development, coal gasification development, advanced power cycle development, geothermal steam development, and coal liquefaction development; to authorize and direct the Secretary of the Interior to make mineral resources of the public lands available for said development corporations; and for other purposes. Referred to the Committee on Interior and Insular Affairs.

NATIONAL ENERGY RESEARCH AND DEVELOPMENT ACT OF 1973

Mr. JACKSON. Mr. President, I send to the desk, for appropriate reference, a bill to establish a national program for research, development, and demonstration of fuels and energy technologies and for the coordination and financial supplementation of Federal energy research and development.

It has now been a year and a half since the Senate authorized the Committee on Interior and Insular Affairs to undertake a comprehensive study of national fuels and energy policy. During the course of this study, the committee has conducted extensive hearings and studies into every aspect of fuels and energy policy and has published more than 40 documents—hearing records, staff and consultant reports, committee prints, and other materials.

The committee is now in the process of concluding the information gathering and public hearings stage of the study and investigation, and will soon begin to consider policy option papers dealing with specific recommendations for administrative action, for legislation, and for national energy policy in a number of different subject matter areas. Although the committee has not completed its final report to the Senate, I believe, as one member of the committee, that many clear conclusions already have emerged from the study.

The most obvious and, in my view, the most important conclusion to have emerged is that the Nation critically needs and must now establish a comprehensive high-priority energy research and development program.

A major factor contributing to our present energy crisis is that the necessary research and development efforts which could have provided us with the technological options and capabilities we now need so desperately were not undertaken in the past. Fragmented management, inadequate funding, and illogical distribution of the little energy R. & D. funding which is available have all contributed to the critical energy supply situation we face today.

In the United States we are now facing for the first time very serious shortages of natural gas, fuel oil and other forms of energy. In the months ahead many regions of the Nation will face critical shortages of gasoline.

The shortages are not caused by a lack of domestic energy resources. There are adequate domestic supplies of energy to meet all of our requirements for the foreseeable future. We have huge coal reserves in Appalachia and in the West. The oil shale deposits in the Western United States are an untapped energy resource of great potential. Geothermal power—the heat contained in the earth—could be a major source of energy. There are large volumes of oil and gas yet to be discovered on the Outer Continental Shelf and in the United States.

The shortages we are experiencing and the shortages that all knowledgeable commentators project in the months ahead are the direct result of the Nation's failure to anticipate the problems and to develop policies to deal with them. This is especially true in the area of energy research and development. We have failed to move from the realm of theory into the time of commercial demonstration.

Today in the United States adequate supplies of fuels and other energy resources are available. The basic scientific theory and laboratory experimentation to convert the domestic fuels we have in abundance to usable forms of energy exist. But the technologies which would make these domestic energy sources commercially useful within acceptable environmental and economic limits have not been developed.

Why has not the research and development been done?

For one thing, neither industry nor Government fully appreciated the magnitude of the emerging energy crisis. And now that it is here and its magnitude has been appreciated, there is still a reluctance to undertake the all-out research effort we need.

In many areas we have had abundant warnings. We have been concerned about the national security aspects of oil imports at least since 1955 when a voluntary quota system was initiated. But there is little evidence that either Government or

industry has made efforts to improve the utility of our most abundant domestic fuels. Specifically, research on oil shale has been sporadic and unenthusiastic; in coal gasification we have only the technologies developed abroad more than a generation ago.

We have recognized the adverse physical and social consequence of underground coal mining since before the turn of the century, but underground mining continues to remain a dirty, dangerous, labor-intensive process with little application of modern automated technologies.

Air pollution caused by electrical power plants and the adverse impacts of stripmining are self-evident, but far too little research has been done on methods to mitigate these impacts. Even now, efforts are totally inadequate in relation to the enormity of the problem.

This Nation depends upon electrical power for 25 percent of the life support energy of modern communities, but the electric utility industry does not have the flexibility to effectively deal with all of the new constraints which now exist in the management of its systems. Most generating equipment, for example, is incapable of switching from one fossil fuel to another. When one fuel runs short, the utility experiences a crisis even when alternative fuels are available.

Too little has been done to control the burgeoning energy demand. Yet, if we fail to meet a peak demand for electricity, entire cities are blacked out. The traffic lights and the neon signs go out together: So do the TV sets and the elevators, the electric toothbrush and the kidney machine.

Now we realize the threat. But what research or engineering is underway to reduce or eliminate the public catastrophe which can result when peak demands or fuel shortages exceed the capacities of the systems?

I cannot agree with a recommendation recently published by the National Petroleum Council that all we need is a favorable "economic and regulatory climate" to bring about the necessary and required energy research and development. Even if a favorable "economic and regulatory climate" were achieved, I question claims that research and development efforts would improve. Quite the contrary, favorable economic climates in the past have encouraged complacency and neglect of potentially favorable technological alternatives. Whatever R. & D. is being done, has been forced by adversity.

The legislation I am introducing today is designed to initiate a program for energy R. & D. which will establish the urgency of purpose which has characterized successful national research efforts in the past, such as the space program and the Manhattan project. The program I am advocating has the following major parts:

First. A clear and specific objective—to provide the United States, by 1983, with the capability to be self-sufficient in environmentally acceptable sources.

An aggressive research and development effort must have a goal. It is too easy to claim technological progress in relation to the past. Progress in R. & D.—success or failure—must be measured against a schedule, and a schedule requires a defined objective.

Second. A management mechanism to provide an overview of Federal energy R. & D. programs and the financial capability to achieve an adequate total effort.

The President's budget for fiscal year 1974 proposes a total of less than $800 million—$771.8—for all energy research and development. Nearly 75 percent of this amount is for nuclear energy R. & D., primarily conducted by the AEC. The rest, scattered throughout the Federal agencies, is grossly inadequate to deal with the short-term problems of environmental controls, to carry forward creative efforts on unconventional energy sources such as solar energy, and to improve the efficiency of conventional energy technologies such as petroleum and natural gas recovery techniques and electrical power generation and transmission.

I propose that an interagency "Energy Management Project" be established. It will have an independent chairman with a small technical and budget staff who will be assisted by representatives of the existing Federal agencies which have energy R. & D. responsibiltiies. The project will have an annual budget of $800 million to supplement the programs now underway.

The project will be authorized to transfer funds to Federal agencies to reinforce ongoing programs. More importantly, it will be authorized to determine what new efforts are needed and to enter into agreements with universities, national laboratories, nonprofit organizations, or industrial entities to obtain the kind of research and development capabilities which are required.

The project is not a reorganization of existing Federal energy functions. It will, however, enable the Federal Government to make an aggressive start now on a comprehensive research strategy, while the involved and time-consuming job of Government reorganization for energy is underway. The establishment of the project will not disrupt the progress of ongoing programs which are sorely needed. Once a permanent lead agency for energy and energy R. & D. has been created, the duties and budget of the project can be assigned to that agency.

Third. Single-purpose, corporate ventures to advance potential energy technologies to stage of commercial application.

One of the most difficult problems in bringing new technologies into general application is to move from the laboratory or pilot plant phases to the first commercial prototype. Prototypes represent much larger investments of capital than experimental research. Construction and management of prototypes present unfamiliar startup and production problems, and the potential returns on investment are always uncertain.

A number of critically needed energy technologies are now stalemated at the point of prototype construction. Shale oil production, coal gasification and liquefaction, advanced combined power cycles, and geothermal energy all are close to commercial viability. Each technology, however, needs to be pushed from the laboratory into commercial service. Achieving this will require a single-minded management group and adequate funding to bridge the gap from research to prototype.

Single-purpose, corporate ventures should, in my view, be established for each technology, with Federal support and involvement limited to the development and demonstration period. This will insure that the management of the venture is concerned solely with success in one technology and in the immediate future.

Federal support in each corporation should be sufficient to overcome the element of uncertainy and make the investment attractive to industrial participants. The corporate structure will permit Federal participation on the board of directors commensurate with the level of Federal support, but it will provide the non-Federal participants with a real share in management.

Specifically, the five areas which I propose to be included are: Coal gasification, shale oil, advanced power cycles, geothermal resources, and coal liquefaction.

First, coal gasification is tremendously significant, because it would permit our extensive coal resource—over 87 percent of proved fossil fuel reserves—to be used directly to replace scarce oil and gas. The process would offer the opportunity to remove contaminants from the fuel prior to combustion, thereby decreasing air pollution and contributing to more efficient energy production.

Second, shale oil is important, because of the extent of the domestic resource—at least 30 times greater than reserves of crude.

Third, advanced power cycles would utilize the process of coal gasification in conjunction with high temperature aircraft-type turbines followed by conventional steam cycles at lower temperatures, all combined into a single system. They would provide electricity at higher efficiencies thereby conserving resources. Advanced power cycles also offer opportunities to reduce air and water pollution to levels lower than those of conventional powerplants, and to make our deposits of high sulfur coal usable.

Fourth, geothermal resources, if all forms of development are considered, are virtually an unlimited source of heat energy in many areas of the country. Geothermal energy is a "renewable" resource and is a potentially clean source of electric power generation and of heat for industrial processes.

Fifth, coal liquefaction, the production of synthetic liquid petroleum products from coal, can provide a substitute for increasingly scarce petroleum products.

Taken together, the program I propose—a specific R. & D. objective; coordinated and adequately funded management of Federal support; and aggressive efforts to bring each of the promising new technologies to fruition—will increase Federal funding of energy R. & D. from the present level of less than $800 million to about $2 billion annually over a period of 10 years. That

would represent an increase of 150 percent of the present level. In terms of the significance of the energy crisis in relation to the overall economic, financial, and social well-being of the Nation, this is the minimum program which is justifiable.

Mr. President, the bill which I am introducing today is consistent with S. 357, a proposal cosponsored by myself, the Senator from Washington (Mr. MAGNUSON) and several other Senators. S. 357 would amend the Federal Power Act to establish a Federal power research and development program to increase the efficiency of electric energy production and utilization, reduce environmental impacts, and develop new sources of clean energy. I believe that an R. & D. strategy of this nature is appropriate for the electric utility industry.

In a spirit of cooperation among the various committees which are members of the Senate Resolution 45 study, I have discussed the relationship between S. 357 and the measure I am introducing today with the distinguished Senator from Washington (Mr. MAGNUSON) and my esteemed colleague from West Virginia (Mr. RANDOLPH) and it is our intention to insure full compatibility between these two bills before they reach the Senate floor, so that the Senate can consider a single comprehensive energy research and development strategy designed to remedy the past years of neglect by the Federal Government.

The measure I introduce today does not purport to be the final answer to the Nation's energy problems. It is, however, an appropriate starting point in bringing America's scientific and intellectual resources and technological capability to bear upon a problem which affects the lives and the future well-being of all Americans. The bill itself will be improved and modified as a result of committee hearings and the suggestions and recommendations of other Members of the Senate and of the administration.

Mr. President, I ask that the following tables and the full text of the National Energy Research and Development Policy Act of 1973 be printed in the RECORD at the conclusion of my remarks.

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

BUDGET SUMMARY (FEDERAL SHARE ONLY)

[Dollars in millions]

	Fiscal year—				
	1973	1974	1975	1976	1977
President's budget	$642	$772	$800	$850	$850
R. & D. management program		810	810	810	810
Development Corp.:					
Coal gas		6	30	40	50
Shale oil		5	40	40	50
Advance power cycle		6	70	80	80
Geothermal		8	70	80	80
Other (?)				8	70
Total	642	1,607	1,820	1,908	1,990

Note: For the 10-year period from fiscal year 1975 to fiscal year 1985, the average annual Federal energy R. & D. budget would be $2,000,000,000 for the decade to achieve energy self-sufficiency.

ENERGY R. & D. SUMMARY

	Amount (millions)	Percent
Present (fiscal year 1973) budget:		
Total	$642.3	
Nuclear	480.0	75
Proposed (fiscal year 1974) budget:		
Total	771.8	
Nuclear	560.0	73
Proposed measure:		
Title I: Research management project (annually)	800	
Titles II–VI: Development corporations		

[Dollar amounts in millions]

	Total cost	Years	Federal share	Percent
Coal gas	$660	10	$396	60
Shale oil	560	8	280	50
Advance power	1,000	10	650	65
Geothermal	885	15	708	80
Coal liquefaction	750	12	562	75

S. 1283

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 Energy Research and Development Policy Act of 1973".

TITLE I—COORDINATION AND AUGMENTATION OF FEDERAL SUPPORT FOR RESEARCH AND DEVELOPMENT OF FUELS AND ENERGY

SEC. 101. The Congress hereby finds that—

(a) The Nation is currently suffering a critical shortage of environmentally acceptable forms of energy.

(b) A major reason for this energy shortage is our past and present failure to formulate an aggressive research and development strategy designed to make available to American consumers our large reserves of domestic fossil fuels, nuclear fuels, and geothermal energy, and the potentially unlimited reserves of solar power, nuclear, and other unconventional sources of energy.

(c) The responsibilities of the Federal Government for conducting and assisting energy research, development, and demonstration projects are fragmented among many agencies and departments of government and are not being planned and managed in a rational and coordinated manner.

(d) Present inadequate organizational arrangements and levels of funding for energy research, and demonstration development, have limited the Nation's current and future options for dealing with existing domestic energy shortages.

(e) The Nation's critical energy problems can be solved by 1983 if a national commitment is made now to accord the proper priority, to dedicate the necessary financial resources, and to enlist our unequaled scientific and technological capabilities to develop new options and new management systems to serve national needs, conserve vital resources, and protect the environment.

STATEMENT OF POLICY

SEC. 102. In order to provide an adequate energy base to support the Nation's existing and future social goals and aspirations, it is hereby declared to be the policy of the Congress to establish and maintain a national program of research and development in fuels and energy adequate to meet the following objectives—

(a) encourage the conservation of limited energy resources and maximize the efficiency of energy development, production, conversion, and use;

(b) insure adequate, reliable, economical, and environmentally acceptable energy systems to support the essential needs of modern society including the established social objectives of Federal, State, and local government;

(c) discover the most attractive short-term solutions to immediate problems of the energy system which are having serious impacts upon society;

(d) develop the technology and information base necessary to support development of the widest possible range of options available for future energy policy decisions by aggressively pursuing research and development programs in a wide variety of energy technologies;

(e) provide within ten years the option and the capability for self-sufficiency for the United States through the development of socially and environmentally acceptable methods for the development and utilization of domestic energy sources; and

(f) establish within the Federal Government central responsibility and institutional capability for maintaining continuing assessment, overview, and direction of the energy research and development activities of the Federal Government, private industry, and nonprofit organizations pending the reorganization of the Federal energy agencies to attain and support the objectives of a national energy policy.

ENERGY RESEARCH MANAGEMENT PROJECT

SEC. 103. (a) There is hereby established an Energy Research Management Project (hereafter referred to as the "Management Project") which shall be composed of—

(1) one Assistant Secretary of the Interior who shall be designated by the Secretary of the Interior;

(2) one Commissioner of the Atomic Energy Commission who shall be designated by the Chairman of the Commission;

(3) one Commissioner of the Federal Power Commission who shall be designated by the Chairman of the Commission;

(4) the Director of the National Science Foundation;

(5) one Assistant Administrator of the Environmental Protection Agency who shall be designated by the Administrator of the Agency;

(6) one Assistant Administrator of the National Aeronautics and Space Administration who shall be designated by the Administrator; and

(7) such other appropriate representatives of other executive agencies which the President finds have a significant and containing role in energy research and development.

(b) The Management Project shall have a Chairman who shall also serve as the Staff Director. The Chairman shall be appointed by the President to serve at his pleasure, by and with the advice and consent of the Senate, and shall be chosen with due regard to his experience, training, and ability in the areas of fuels and energy technology and in the management of research and development. During his term of service, the Chairman shall not hold any other position as an officer or employee of the United States, except as a retired officer or retired civilian employee of the United States.

DUTIES

SEC. 104. The Management Project shall—

(a) review the full range of Federal activities in and financial support for fuels and energy research and development, giving consideration to research and development being conducted by industry and other non-Federal entities, to determine the capability of ongoing research efforts to carry out the policies established by this Act and other relevant Federal policies, particularly the National Environmental Policy Act of 1969 (83 Stat. 852);

(b) formulate a comprehensive energy research and development strategy for the Federal Government which will expeditiously advance the policies established by this Act, and insure that full consideration and adequate support is given to:

(1) improving the efficiency, conservation, and environmental effects of the conventional sources of energy including discovery, production, conversion, transportation, use, and disposal of waste products;

(2) advancing energy research, development, and demonstration of unconventional energy sources and technologies including but not limited to—solar energy, geothermal energy, magnetohydrodynamics, fusion processes, fuel cells, low head hydroelectric power, use of agricultural products for energy, tidal power, ocean current and thermal gradient power, wind power, automated mining methods and in situ conversion of fuels, cryogenic transmission of electric power, electrical energy storage methods, alternatives to internal combustion engines, solvent refined coal, utilization of waste products for fuels, direct conversion methods; and

(3) improving management techniques and the effectiveness of management of existing energy systems through quality control; application of systems analysis, communications, and computer techniques; and public information to improve the reliability and efficiency of energy supplies and encourage the conservation of energy resources.

(c) utilize the funds authorized by section 112(b) of this Act to advance the energy research and development strategy by—

(1) supplementing by fund transfers the ongoing energy research and development programs of Federal agencies; and

(2) initiating and maintaining, by fund transfers or grants, new energy research and development programs or activities utilizing the facilities, capabilities, expertise, and experience of Federal agencies, national laboratories, universities, nonprofit organizations, and industrial entities which are appropriate to each type of research and development.

(d) identify opportunities to accelerate the commercial application of new energy technologies by means of joint Federal-industry corporations and submit plans to the Congress recommending the establishment of such corporations and the appropriate level of Federal financial participation in each;

(e) in the exercise of its duties and responsibilities under this title, establish procedures for periodic consultation with representatives of science, industry, environmental organizations, and such other groups who have special expertise in the areas of energy research, development, and technology.

DETERMINATION OF NEED FOR FEDERAL PARTICIPATION IN RESEARCH AND DEVELOPMENT

SEC. 105. In evaluating proposed opportunities for particular research and development undertakings pursuant to this title, the Management Project shall assign priority to those undertaking in which—

(1) the urgency of public need for the potential results of the research, development, or demonstration effort is high, and there is little likelihood that similar results would be achieved in a timely manner in the absence of Federal assistance;

(2) the potential opportunities for non-Federal interests to recapture the investment in the undertaking through the normal commercial exploitation of proprietary knowledge appear inadequate to encourage timely results;

(3) the extent of the problems treated and the objectives sought by the undertaking are national or regional in scope as opposed to being of importance to localities or individual industries;

(4) there are limited opportunities for regulatory actions and incentives other than direct Federal financial assistance, including, but not limited to, end-use controls, tax and price incentives, and public education, to induce non-Federal support of the undertaking;

(5) the degree of risk of loss of investment inherent in the research is high, and the availability of risk capital to the non-Federal entities which might otherwise engage in the field of the research is limited; or

(6) the magnitude of the investment appears to exceed the financial capabilities of potential non-Federal participants in the research to support effective efforts.

PROPRIETARY INFORMATION AND PATENTS

SEC. 106. (a) All research contracted for, sponsored, or cosponsored by the Management Project pursuant to this title, shall require as a condition of Federal participation that all information, processes, or patents, resulting from federally assisted research will be available to the general public.

(b) Where a participant in an energy research and development project holds background patents, trade secrets, or proprietary information which will be employed in and are requisite to the proposed research and development project, the Management Project shall enter into an agreement which will provide equitable protection to the participants' rights: *Provided*. That any such agreement must provide that when the energy research and development project reaches the stage of commercial application all previously developed patents, trade secrets, or proprietary information necessary to commercial application of the energy process or system developed under this title will be made available to any qualified applicant on reasonable license terms which shall take into account that the commercial viability of the total energy process or system was achieved with the assistance of public funds: *And provided further*, That where a commercial energy process or technology has been developed through the use of supplemental funds made available under subsection 104 (c) (1) of this Act to other Federal agencies, the provisions of law applicable to those agencies on patent rights or the disclosure of trade secrets or proprietary information shall govern. Where an agency using such supplemental funds does not have a specific legislative policy on patent rights or the disclosure of trade secrets or proprietary rights, the provisions of subsections (a) and (b) of this section shall control.

PRESIDENTIAL REVIEW

SEC. 107. (a) The President shall—

(1) in connection with any reorganization plan which he may propose which has significant impacts upon the agencies represented on the Management Project, or

(2) immediately upon the authorization by the Congress of any reorganization which has significant impact upon the agencies represented upon the Management Project, make his recommendations to the Congress concerning—

(i) the necessity for continuing the Management Project,

(ii) the appropriate membership of the Management Project if it is continued, and

(ii) the appropriate agency to receive the duties, funding, and staff of the Management Project if it is to be terminated.

(b) Not later than five years from the date of this Act, if the authorities and duties of the Management Project are not reassigned to a permanent agency in the interim, the President shall report to the Congress on his evaluation of the progress of fuels and energy research and development and his recommendation for further management of the Federal research and development programs.

ADMINISTRATIVE PROVISIONS

SEC. 108. The Chairman shall be compensated at the rate provided for level II of the Executive Schedule Pay Rates (5 U.S.C. 5313).

POWERS

SEC. 109. (a) The Chairman may employ such officers and employees as may be necessary to carry out the functions of the Management Project under this title and may employ and fix the compensation of such experts and consultants as may be necessary, in accordance with section 3109 of title 5, United States Code (but without regard to the last sentence thereof);

(b) The Management Project may—

(1) acquire, furnish, and equip such office space as is necessary;

(2) use the United States mails in the same manner and upon the same conditions as other agencies of the United States;

(3) purchase, hire, operate, and maintain passenger motor vehicle;

(4) enter into contracts or agreements for studies and surveys with non-Federal public and private organizations and transfer funds to Federal agencies to carry out aspects of the Management Project's duties; and

(5) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required to perform its functions under this title.

(c) The Chairman shall have the authority and be responsible for—

(1) the supervision of personnel;

(2) the assignment of duties and responsibilities among personnel; and

(3) the use and expenditure of funds.

COOPERATION OF FEDERAL AGENCIES

SEC. 110. Upon request the Chairman, the head of any Federal department or agency is authorized and directed—

(1) to furnish the Management Project within the limits of available funds, including funds transferred for that purpose pursuant to section 107(b) of this Act, such information as may be necessary for carrying out it functions, and

(2) to detail to temporary duty with the Management Project on a reimbursable basis such personnel as it may require for carrying out its functions, each such detail to be without loss of seniority, pay, or other employee status.

CONGRESSIONAL ACCESS TO INFORMATION

SEC. 111. The Chairman shall keep the Congress fully and currently informed of all the Management Project's activities and shall submit to the Congress an annual report. Neither the Chairman nor any other member of the Management Project or its employees may refuse to testify before the Congress or to submit information to the legislative or appropriations committees of either House of the Congress.

APPROPRIATIONS

SEC. 112. (a) There are authorized to be appropriated $10,000,000 annually for the administrative expenses of the Management Project including such amounts as may be expended for consulting services in connection with the duties of the Management Project and including funds transferred to other Federal agencies in compensation for personal services in assisting the Management Project with the administration of this title.

(b) There are authorized to be appropriated not to exceed $800,000,000 for the fiscal year ending June 30, 1974, and, subject to annual congressional authorizations, $800,000,000 for each of the four following fiscal years to carry out the provisions of subsection 104(c) of this title.

(c) The Chairman of the Management Project, in conjunction with his recommendations for annual contributions of appropriations pursuant to subsection (b) of this section, shall report to the Congress on the activities of the previous calendar year, the expenditure of funds, the new projects initiated, the projects which have been terminated, and any new contractual arrange-

ments entered into, and the progress the Management Project has made during that year toward attaining the capability of domestic energy self-sufficiency for the United States within ten years of the date of enactment of this Act. In each instance where delays in scheduled accomplishments are reported, the reasons for the delays shall be set forth along with recommendations for actions, including specific estimates of additional funding, or requirements for new legislative authority which would assist in regaining the schedule.

TITLE II—ESTABLISHMENT OF A COAL GASIFICATION CORPORATION

SEC. 201. (a) The Congress recognizes that—

(1) natural gas is the least polluting of the fossil fuels in that it causes no pollution from sulfur oxides and particulate and emits the least amount of nitrogen oxides per heat unit supplied;

(2) natural gas can be produced and transported with less environmental degradation than the other fuels and at costs that compare favorably with the competitive fuels for uses where the various fuels are interchangeable;

(3) for five consecutive years the amount of natural gas consumed in the United States exceeded new supplies found in the contiguous forty-eight States;

(4) projections of future gas demand are such that every new supply source must be considered, including natural gas by pipeline, importation of liquefied natural gas from foreign sources, and the gasification of coal;

(5) gasification of coal has been tested on a small scale in a variety of processes by a number of investigators, but to achieve commercial status for any of these methods will require the construction and operation of a large demonstration plant followed by the construction and operation of a commercial sized plant;

(6) it is important to provide environmentally acceptable fuel to the American consumer using domestic resources that can be produced by American labor and which are secure from the uncertainties attendant to foreign supplies; and

(7) the total research and development effort required is too large for any single company to risk undertaking and a consortium of companies would be difficult to assemble without Federal leadership.

(b) It is therefore the policy of Federal Government to bring this technology to commercial development as quickly as possible by establishing a Government-industry program jointly managed and funded to demonstrate commercial scale methods of producing substitutes for natural gas.

SEC. 202. (a) There is hereby established the Coal Gasification Development Corporation (hereinafter in this title referred to as the "Corporation"). The Corporation shall have a Board of nine Directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements pursuant to subsection (d) of this section. Pending the appointment of such Directors on the basis of the aforementioned recommendations, three members shall constitute a quorum for the purpose of conducting the business of the Board. The President of the United States shall call the first meeting of the Board of Directors. Each Director of the Board not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the Board he attends. In addition, each Director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the Board.

(b) The Board of Directors is empowered to adopt and amend bylaws, consistent with the provisions of this title, governing the operation of the Corporation.

(c) The Corporation shall have a President and such other officers and employees as may be named and appointed by the Board. The rates of compensation of all officers and employees shall be fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation.

(d) In order to assemble and organize industrial participation in the carrying out of the purposes and functions of the Corporation, the Administrator of General Services is authorized to enter into contractual arrangements with any private entity or entities under which such entity or entities agree to participate in the carrying out of such purposes and functions, including the furnishing of financial assistance in connection therewith. Such contract or contracts shall include such terms and conditions, consistent with this title, as the Administrator of General Services may prescribe.

SEC. 203. (a) It shall be the function of the Corporation to select, on the basis of the best engineering information available, the two or more most technically, environmentally, and economically feasible methods for manufacturing substitute natural gas from coal. After selection of such methods, the Corporation is authorized to design, construct, operate, and maintain a demonstration-type facility for each such method selected in order to determine the technical, environmental, and economical feasibility thereof. If on the basis of the operation of each such demonstration facility the Corporation determines that the method so demonstrated is a technically and economically feasible method for manufacturing substitute natural gas from coal on a commercial scale, the Corporation is authorized to design, construct, operate, and maintain, for each such method demonstrated, a full-scale, commercial-size facility to manufacture substitute natural gas from coal by such method.

(b) Substitute natural gas produced by such commercial facilities shall be disposed of in such manner and under such terms and conditions as the Corporation shall prescribe. The Corporation shall arrange to deliver any substitute natural gas so manufactured to such buyer as may be authorized, by contract or otherwise, by the Corporation. All revenues received by the Corporation from the sale of such gas shall be available to the Corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(c) The Corporation shall make available, by license or otherwise, on a nonexclusive royalty free basis without territorial limitation the use of any patent obtained by the Corporation under any law of the United States or any foreign country for or with respect to any invention made in the performance of any activity conducted pursuant to this title. On and after the dissolution of the Corporation and the transfer of its patent rights in accordance with section 206, the Administrator of General Services shall administer such patents rights in accordance with the provisions of this subsection.

SEC. 204. In carrying out its functions under this title, the Corporation is authorized to enter into contracts, leases, or other arrangements; to own, manage, operate or contract for the operation of facilities authorized by this title; to conduct research and development related to its mission; and to acquire by construction or purchase, or to contract for the use of, physical facilities, equipment, patents, and devices which it determines necessary in carrying out such functions. To carry out its functions, the Corporation shall have, in addition to the powers conferred by this title, the usual powers conferred upon corporations by the District of Columbia Business Corporation Act. Leases, contracts, and other arrangements entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

SEC. 205. (a) The Corporation shall transmit to the President of the United States and the Congress, annually, commencing one year from the date of the enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. Such report shall be available to the public.

(b) All reports, plans, specifications, cost and operating data of the Corporation acquired by it in connection with the carrying out of its duties under this title, shall be made available by the Corporation in accordance with the provisions of section 552 of title 5 of the United States Code.

(c) The Corporation shall make annual reports available to interested parties on the progress of its operations. Such reports shall be in sufficient detail so that independent engineering and economic judgments can be made based on such reports. Detailed drawings and other information of value to those who might be interested in commercial development shall be placed on open file by the Corporation on a continuing basis for examination by interested parties.

SEC. 206. On or before the expiration of ten years following the date of the enactment of this Act, the Board of Directors shall take such action as may be necessary to dissolve the Corporation. In carrying out such dissolution, the Board of Directors is authorized to dispose of all physical facilities of the Corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest. A share proportional to the Federal participation in the assets of the Corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the United States Treasury as miscellaneous receipts. All patent rights of the Corporation shall, on such date of dissolution, be vested in the Administrator of General Services.

SEC. 207. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Corporation, upon its request, any information or other data which the Corporation deems necessary to carry out its duties under this title.

(b) The Corporation is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency, of the Government.

(c) The Corporation may procure the services of experts and consultants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate such experts and consultants without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, in accordance with section 3109 of that title.

SEC. 208. The Secretary of the Interior is authorized and directed to make available to the Corporation established by this title Federal lands under his jurisdiction (except lands within national park, wilderness, and wildlife refuge systems, lands on the Outer Continental Shelf, lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States) which contain coal (1) when such corporation determines that use of the coal is necessary to carry out its research program, and (2) under terms and conditions promulgated by the Secretary to protect the environment and other resource values of the lands involved.

SEC. 209. There are authorized to be appropriated to the Corporation, for the fiscal year ending June 30, 1974, the sum of $6,000,000, and for each of the next nine succeeding fiscal years such sums as may be necessary. All funds appropriated pursuant to this section shall remain available until expended. Notwithstanding any other provisions of this title, in no case shall funds appropriated pursuant to this section for any fiscal year be expended in an amount in excess of 60 per centum of the costs to the Corporation in connection with the carrying out of its duties under this title for that fiscal year.

TITLE III—ESTABLISHMENT OF A SHALE OIL DEVELOPMENT CORPORATION

SEC. 301. (a) The Congress recognizes that—

(1) in recent years there have been increasing difficulties in supplying all of the energy needs of the country;

(2) all projections forecast that the energy shortage will grow more severe unless steps are taken to increase supplies;

(3) the prevention of an energy shortage will require the full development and utilization of all potential domestic energy resources, of which shale oil is one of the most abundant;

(4) shale oil can be used to provide nonpolluting energy that will meet stringent environmental standards;

(5) public lands of the United States contain nearly 80 per centum of the total shale oil resources;

(6) experimental efforts and tests on a small scale by both industry and Government have been inadequate to develop shale oil resources;

(7) the Federal Government must assume leadership and responsibility, if the economic development of shale oil is to be assured;

(8) providing clean fuel to the American consumer using indigenous resources that can be produced by American workers and which are secure from the vagaries of foreign supplies is important to the Nation's future;

(9) the importation of oil is one of the most important factors leading to the imbalance of payments and that this will grow larger in the future;

(10) the research and development effort required to bring shale oil to commercial realization is too large for any single company to risk undertaking or to fully explore and a consortium of companies should be assembled under Federal leadership.

(b) It is therefore the policy of the Federal Government to bring into being the technology for commercial development of shale oil as quickly as possible by establishing a Government-industry program jointly managed and funded to demonstrate commercial methods of producing environmentally acceptable fuels from shale oil.

SEC. 302. (a) There is hereby established the Shale Oil Development Corporation (hereafter in this title referred to as the "Corporation"). The Corporation shall have a Board of nine Directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements pursuant to subsection (d) of this section. Pending the appointment of such Directors on the basis of the aforementioned recommendations, three members shall constitute a quorum for the purpose of conducting the business of the Board. The President of the United States shall call the first meeting of the Board of Directors. Each Director of the Board not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the Board he attends. In addition, each Director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the Board.

(b) The Board of Directors is empowered to adopt and amend bylaws, consistent with the provisions of this title, governing the operation of the Corporation.

(c) The Corporation shall have a President and such other officers and employees as may be named and appointed by the Board. The rates of compensation of all officers and employees shall be fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation.

(d) In order to assemble and organize industrial participation in the carrying out of the purposes and functions of the Corporation, the Administrator of General Services is authorized to enter into contractual arrangements with any private entity or entities under which such entity or entities agree to participate in the carrying out of such purposes and functions, including the furnishing of financial assistance in connection therewith. Such contract or contracts shall include such terms and conditions, consistent with this title as the Administrator of General Services may prescribe.

SEC. 303. (a) It shall be the function of the Corporation to select, on the basis of the best engineering information available, the two or more technically, environmentally, and feasible methods for producing a syncrude from shale oil. After selection of such methods, the Corporation is authorized to design, construct, operate, and maintain a demonstration-type facility for each such method selected in order to determine the technical, environmental, and economical feasibility thereof. If on the basis of the operation of each such demonstration facility the Corporation determines that the method so demonstrated is a technically and economically feasible method for producing a syncrude from shale oil on a commercial scale, the Corporation is authorized to design, construct, operate, and maintain, for each method demonstrated, a full-scale commercial-size facility to produce a syncrude from shale oil by such method.

(b) Syncrude produced by such commercial facilities shall be disposed of in such manner and under such terms and conditions as the Corporation shall prescribe. The Corporation from the sale of such syncrude shall be available to such buyer as may be authorized, by contract or otherwise, by the Corporation. All revenues received by the Corporation from the sale of such syncrude shall be available to the Corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(c) The Corporation shall make available, by license or otherwise, on a nonexclusive royalty free basis without territorial limitation the use of any patent obtained by the Corporation under any law of the United States or any foreign country for or with respect to any invention made in the performance of any activity conducted pursuant to this title. On and after the dissolution of the Corporation and the transfer of its patent rights in accordance with section 306 the Administrator of General Services shall administer such patent rights in accordance with the provisions of this subsection.

SEC. 304. In carrying out its functions under this title, the Corporation is authorized to enter into contracts, leases, or other arrangements; to own, manage, operate, or contract for the operation of facilities authorized by this title; to conduct research and development related to its mission; and to acquire by construction or purchase, or to contract for the use of, physical facilities, equipment, patents, and devices which it dedetermines necessary in carrying out such functions. To carry out its functions, the Corporation shall have, in addition to the powers conferred by this title, the usual powers conferred upon corporations by the District of Columbia Business Corporation Act. Leases, contracts, and other arrangements entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

SEC. 305. (a) The Corporation shall transmit to the President of the United States and the Congress, annually, commencing one year from the date of the enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. Such report shall be available to the public.

(b) All reports, plans, specifications, and cost and operating data of the Corporation acquired by it in connection with the carrying out of its duties under this title shall be made available by the Corporation in accordance with the provisions of section 552 of title 5 of the United States Code.

(c) The Corporation shall make annual reports available to interested parties on the progress of its operations. Such reports shall be in sufficient detail so that independent engineering and economic judgments can be made based on such reports. Detailed drawings and other information of value to those who might be interested in commercial development shall be placed on open file by the Corporation on a continuing basis for examination by interested parties.

SEC. 306. On or before the expiration of eight years following the date of the enactment of this Act, the Board of Directors shall take such action as may be necessary to dissolve the Corporation. In carrying out such dissolution, the Board of Directors is authorized to dispose of all physical facilities of the Corporation in such maner and subject to such terms and conditions as the Board determines are in the public interest. A share proportional to the Federal participation in the assets of the Corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the United States Treasury as miscellaneous receipts. All patent rights of the Corporation shall, on such date of dissolution, be vested in the Administrator of General Services.

SEC. 307. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Corporation, upon its request, any information or other data which the

Corporation deems necessary to carry out its duties under this title.

(b) The Corporation is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency or instrumentality, including any independent agency, of the Government.

(c) The Corporation may procure the services of experts and consultants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate such experts and consultants without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, in accordance with section 3109 of that title.

SEC. 308. The Secretary of the Interior is authorized and directed to make available to the Corporation established by this title Federal lands under his jurisdiction (except lands within national park, wilderness, and wildlife refuge systems, lands on the Outer Continental Shelf, lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States) which contain shale oil (1) when such Corporation determines that use of the shale oil is necessary to carry out its research program, and (2) under terms and conditions promulgated by the Secretary to protect the environment and other resource values of the lands involved.

SEC. 309. There are authorized to be appropriated to the Corporation, for the fiscal year ending June 30, 1974, the sum of $5,000,000, and for each of the next seven succeeding fiscal years such sums as may be necessary. All funds appropriated pursuant to this section shall remain available until expended. Notwithstanding any other provisions of this title, in no case shall funds appropriated pursuant to this section for any fiscal year be expended in an amount in excess of 50 per centum of the costs to the Corporation in connection with the carrying out of its duties under this title for that fiscal year.

TITLE IV—ESTABLISHMENT OF AN ADVANCED POWER CYCLE DEVELOPMENT CORPORATION

SEC. 401. (a) The Congress recognizes that—

(1) electric energy has been supplying a growing share of the Nation's increasing energy demands and is projected to supply greater shares in future years;

(2) conventional methods for the conversion of fossil fuels to electricity employing the steam cycle are approaching the limits of their potential thermal efficiencies, and still represent significant losses of the energy of the fuel resources;

(3) electric energy is the cleanest and most convenient form of energy at the location of its use and is the only practicable form of energy in some modern applications;

(4) increased efficiencies in the production of electric energy can extend the availability of limited fuel resources and reduce the environmental consequences of meeting demands for electric energy;

(5) coal is a desirable fuel for the production of electricity because it is by far the most abundant of domestic fossil fuels;

(6) several processes for the pretreatment of coal to remove sulfur, ash, and other pollutants are available but require further development;

(7) several power cycles have reached advanced stages of development which have potential applications, separately or in combination, for increasing the efficiency of electric power generation;

(8) the application of advanced power cycles in pilot plants and commercial applications presently involve significant engineering problems and economic uncertainties which impair their timely development as commercial ventures; and

(9) Federal financial assistance is necessary to encourage expeditious advances toward commercial applications of advanced power cycles for electric power generation.

SEC. 402. (a) There is hereby established the Advanced Power Cycle Development Corporation (hereinafter in this title referred to as the "Corporation"). The Corporation shall have a Board of nine Directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements pursuant to subsection (d) of this section. Pending the appointment of such Directors on the basis of the aforementioned recommendations, three members shall constitute a quorum for the purpose of conducting the business of the Board. The President of the United States shall call the first meeting of the Board of Directors. Each Director of the Board not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the Board he attends. In addition, each Director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the Board.

(b) The Board of Directors is empowered to adopt and amend bylaws, consistent with the provisions of this title, governing the operation of the Corporation.

(c) The Corporation shall have a President and such other officers and employees as may be named and appointed by the Board. The rates of compensation of all officers and employees shall be fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation.

(d) In order to assemble and organize individual participation in the carrying out of the purposes and functions of the Corporation, the Administrator of General Services is authorized to enter into contractual arrangements with any private entity or entities under which such entity or entities agree to participate in the carrying out of such purposes and functions, including the furnishing of financial assistance in connection therewith. Such contract or contracts shall include such terms and conditions, consistent with this title, as the Administrator of General Services may prescribe.

SEC. 403. (a) It shall be the function of the Corporation to select, on the basis of the best engineering information available, the two or more most technically, environmentally, and economically feasible methods of producing electricity at high efficiencies using advanced power cycles with minimum adverse environmental impacts using coal. After selection of such methods, the Corporation is authorized to design, construct, operate, and maintain a demonstration-type facility for each such method selected in order to determine the technical and economical feasibility thereof. If, on the basis of the operation of each such demonstration facility, the Corporation determines that the method so demonstrated is a technically, environmentally, and economically feasible method for producing electricity from coal on a commercial scale and at appreciably greater efficiencies than conventional means, the Corporation is authorized to design, construct, operate, and maintain, for each such method demonstrated, a full-scale commercial-size facility to produce electricity from coal by such method.

(b) Electric energy produced by such commercial facilities shall be disposed of in such manner and under such terms and conditions as the Corporation shall prescribe: *Provided,* That in the disposal of such electric energy as shall represent the Federal interest in the costs of the Corporation, preference shall be given to Federal agencies, public bodies, and cooperatives. All revenues received by the Corporation from the sale of such energy shall be available to the Corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(c) The Corporation shall make available, by license or otherwise, on a nonexclusive royalty free basis without territorial limitation the use of any patent obtained by the Corporation under any law of the United States or any foreign country for or with respect to any invention made in the performance of any activity conducted pursuant to this title. On and after the dissolution of the Corporation and the transfer of its patent rights in accordance with section 406, the Administrator of General Services shall administer such patent rights in accordance with the provisions of this subsection.

SEC. 404. In carrying out its functions under this title, the Corporation is authorized to enter into contracts, leases, or other arrangements; to own, manage, operate, or contract for the operation of facilities authorized by this title; to conduct research and development related to its mission; and to acquire by construction or purchase, or to contract for the use of, physical facilities, equipment, patients, and devices which it determines necessary in carrying out such functions. To carry out its functions, the Corporation shall have, in addition to the powers conferred by this title, the usual powers conferred upon corporations by the District of Columbia Business Corporation Act. Leases, contracts, and other arrangements entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

SEC. 405. (a) The Corporation shall transmit to the President of the United States and the Congress, annually, commencing one year from the date of the enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. Such report shall be available to the public.

(b) All reports, plans, specifications ,and cost and operating data of the Corporation, acquired by it in connection with the carrying out of its duties under this title, shall be made available by the Corporation in accordance with the provisions of section 552 of title 5 of the United States Code.

(c) The Corporation shall make annual reports available to interested parties on the progress of its operations. Such reports shall be in sufficient detail so that independent engineering and economic judgments can be made based on such reports. Detailed drawings and other information of value to those who might be interested in commercial development shall be placed on open file by the Corporation on a continuing basis for examination by interested parties.

SEC. 406. On or before the expiration of ten years following the date of the enactment of this Act, the Board of Directors shall take such action as may be necessary to dissolve the Corporation. In carrying out such dissolution, the Board of Directors is authorized to dispose of all physical facilities of the Corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest. A share proportional to the Federal participation in the as-

sets of the Corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the United States Treasury as miscellaneous receipts. All patent rights of the Corporation shall, on such date of dissolution, be vested in the Administrator of General Services.

SEC. 407. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Corporation, upon its request, any information or other data which the Corporation deems necessary to carry out its duties under this title.

(b) The Corporation is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency, of the Government.

(c) The Corporation may procure the services of experts and consultants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate such experts and consultants without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, in accordance with section 3109 of that title.

SEC. 408. The Secretary of the Interior is authorized and directed to make available to the Corporation established by this title Federal lands under his jurisdiction (except lands within national parks, wilderness, and wildlife refuge systems, lands on the Outer Continental Shelf, lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States) which contain coal (1) when such Corporation determines that use of the coal is necessary to carry out its research program, and (2) under terms and conditions promulgated by the Secretary to protect the environment and other resource values of the lands involved.

SEC. 409. There are authorized to be appropriated to the Corporation, for the fiscal year ending June 30, 1974, the sum of $6,500,000, and for each of the next nine succeeding fiscal years, such sums as may be necessary. All funds appropriated pursuant to this section shall remain available until expended. Notwithstanding any other provisions of this title, in no case shall funds appropriated pursuant to this section for any fiscal year be expended in an amount in excess of 65 per centum of the costs to the Corporation in connection with the carrying out of its duties under this title for that fiscal year.

TITLE V—ESTABLISHMENT OF A GEOTHERMAL ENERGY DEVELOPMENT CORPORATION

SEC. 501. The Congress recognizes that—

(1) the demand for electric energy in evergy region of the United States is taxing all of the alternative sources presently available;

(2) the electric utilities consume 25 per centum of all fuels used in the United States and that proportion is projected to increase;

(3) some of the fuel sources available for electric power generation are already in short supply and the development and use of other fuel sources presently involves undesirable environmental impacts;

(4) electric energy is the cleanest and most convenient form of energy at the location of its use and is the only practicable form of energy in some modern applications;

(5) geothermal resources presently being used have severely limited total potential;

(6) geothermal resources of different modes are known to exist which have virtually unlimited potential;

(7) technologies are not available for the development of the greater portion of the geothermal resource;

(8) much of the known geothermal resources exist on the public lands;

(9) technologies for the generation of electric energy from geothermal sources are potentially economical and environmentally desirable;

(10) development of geothermal resources offers possibilities of process energy and other nonelectric applications;

(11) Federal financial assistance is necessary to encourage the extensive exploration, research and development, and investments which will bring the technologies to the point of commercial application.

SEC. 502. (a) There is hereby established the Geothermal Energy Development Corporation (hereinafter in this title referred to as the "Corporation"). The Corporation shall have a Board of nine Directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements pursuant to subsection (d) of this section. Pending the appointment of such Directors on the basis of the aforementioned recommendations, three members shall constitute a quorum for the purpose of conducting the business of the Board. The President of the United States shall call the first meeting of the Board of Directors. Each Director of the Board not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the Board he attends. In addition, each Director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the Board.

(b) The Board of Directors is empowered to adopt and amend bylaws, consistent with the provisions of this title, governing the operation of the Corporation.

(c) The Corporation shall have a President and such other officers and employees as may be named and appointed by the Board. The rates of compensation of all officers and employees shall be fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation.

(d) In order to assemble and organize industrial participation in the carrying out of the purposes and functions of the Corporation, the Administrator of General Services is authorized to enter into contractual arrangements with any private entity or entities under which such entity or entities agree to participate in the carrying out of such purposes and functions, including the furnishing of financial assistance in connection therewith. Such contract or contracts shall include such terms and conditions, consistent with this title, as the Administrator of General Services may prescribe.

SEC. 503. (a) It shall be the function of the Corporation, on the basis of the best geologic information and after field exploration, to select suitable sites for the construction of two or more demonstration installations, to develop technologies for the generation of steam and electric power from geothermal resources: *Provided*, That such demonstration installation shall include but not necessarily be limited to one hot water and one hot rock resource. After sufficient experimentation has demonstrated the technical feasibility and established the probability of economic viability of commercial development based upon one or more of the methods tested, the Corporation is authorized to design, construct, operate, and maintain, for each such method demonstrated, a full-scale commercial-size facility to produce electricity from geothermal energy by such method.

(b) Electric energy produced by such commercial facilities shall be disposed of in such manner and under such terms and conditions as the Corporation shall prescribe: *Provided*, That in the disposal of such electric energy as shall represent the Federal interest in the costs of the Corporation, preference shall be given to Federal agencies, public bodies, and cooperatives. All revenues received by the Corporation from the sale of such energy shall be available to the Corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(c) The Corporation shall make available, by license or otherwise, on a nonexclusive royalty fee basis without territorial limitation the use of any patent obtained by the Corporation under any law of the United States or any foreign country for or with respect to any invention made in the performance of any activity conducted pursuant to this title. On and after the dissolution of the Corporation and the transfer of its patent rights in accordance with section 506, the Administrator of General Services shall administer such patent rights in accordance with the provisions of this subsection.

SEC. 504. In carrying out its functions under this title, the Corporation is authorized to enter into contracts, leases, or other arrangements; to own, manage, operate, or contract for the operation of facilities authorized by this title; to conduct research and development related to its mission; and to acquire by construction or purchase, or to contract for the use of, physical facilities, equipment, patents, and devices which it determines necessary in carrying out such functions. To carry out its functions, the Corporation shall have, in addition to the powers conferred by this title, the usual powers conferred upon corporations by the District of Columbia Business Corporation Act. Leases, contracts, and other arrangements entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

SEC. 505. (a) The Corporation shall transmit to the President of the United States and the Congress, annually, commencing one year from the date of the enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this title, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for capital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. Such report shall be available to the public.

(b) All reports, plans, specifications, and cost and operating data of the Corporation, acquired by it in connection with the carrying out of its duties under this title, shall be made available by the Corporation in accordance with the provisions of section 552 of title 5 of the United States Code.

(c) The Corporation shall make annual reports available to interested parties on the progress of its operations. Such reports shall be in sufficient detail so that independent engineering and economic judgments can be made based on such reports. Detailed drawings and other information of value to those who might be interested in commercial development shall be placed on open file by the Corporation on a continuing basis for examination by interested parties.

SEC. 506. On or before the expiration of fifteen years following the date of the enactment of this Act, the Board of Directors shall take such action as may be necessary to dissolve the Corporation. In carrying out such dissolution, the Board of Directors is authorized to dispose of all physical facilities of the Corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest. A share proportional to the Federal participation in the assets of the Corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the United States Treasury as miscellaneous receipts. All patent rights of the Corporation shall, on such date of dissolution, be vested in the Administrator of General Services.

SEC. 507. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Corporation, upon its request, any information or other data which the Corporation deems necessary to carry out its duties under this title.

(b) The Corporation is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency or instrumentality, including any independent agency, of the Government.

(c) The Corporation may procure the services of experts and consultants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate such experts and consultants without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, in accordance with section 3109 of that title.

SEC. 508. The Secretary of the Interior is authorized and directed to make available to the Corporation established by this title Federal lands under his jurisdiction (except lands within national park, wilderness, and wildlife refuge systems, lands on the Outer Continental Shelf, lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States) which contain geothermal resources (1) when such Corporation determines that use of the lands is necessary to carry out its research program, and (2) under terms and conditions promulgated by the Secretary to protect the environment and other resource values of the lands involved.

SEC. 509. There are authorized to be appropriated to the Corporation, for the fiscal year ending June 30, 1974, the sum of $8,000,000, and for each of the next fourteen succeeding fiscal years such sums as may be necessary. All funds appropriated pursuant to this section shall remain available until expended. Notwithstanding any other provisions of this title, in no case shall funds appropriated pursuant to this section for any fiscal year be expended in an amount in excess of 80 per centum of the cost to the Corporation in connection with the carrying out of its duties under this title for that fiscal year.

TITLE VI

ESTABLISHMENT OF A COAL LIQUEFACTION CORPORATION

SEC. 601. (a) The Congress recognizes that—

(1) during the last year there have been increasing difficulties in supplying all of the needs of the country for petroleum products;

(2) shortages of fuel oil, diesel, jet fuel, gasoline, and other products have caused serious economic dislocations, created unemployment, closed schools and factories, and disrupted transportation patterns;

(3) avoiding shortages of petroleum products will require the development and innovative utilization of all energy resources, of which coal is one of the Nation's most abundant:

(4) synthetic liquid petroleum products derived from coal have demonstrated a potential to provide nonpolluting energy in a manner consistent with national environmental standards;

(5) the public lands of the United States contain huge coal reserves;

(6) the Federal Government must assume greater responsibility, if the development of commercial coal liquefaction processes is to be assured at an early enough time to help meet growing consumer demand;

(7) providing synthetic liquid petroleum products to the American consumer using indigenous resources which are secure from the vagaries of foreign supplies is vital to the Nation's future;

(8) growing United States dependence on imported oil is having an increasing negative impact on the United States balance of payments; and

(9) the research and development effort required to bring synthetic liquid petroleum products derived from coal to commercial realization at an early date is too large for any single company to fully explore or risk undertaking and a consortium of interested companies should be assembled.

(b) It is therefore the policy of the Federal Government to bring into being the technology for commercial development of coal liquefaction processes as quickly as possible by establishing a Government-industry program jointly managed and funded to demonstrate commercial methods of producing synthetic liquid petroleum products from coal.

SEC. 620. (a) There is hereby established the Liquefaction Corporation (hereafter in this title referred to as the "Corporation"). The Corporation shall have a Board of nine Directors consisting of individuals who are citizens of the United States, of whom one shall be elected annually by the Board to serve as Chairman. Five members of the Board shall be appointed by the President of the United States, by and with the advice and consent of the Senate, and four members of the Board shall be appointed by the President on the basis of recommendations received by him from any non-Federal entity or entities entering into contractual arrangements pursuant to subsection (d) of this section. Pending the appointment of such Directors on the basis of the aforementioned recommendations, three members shall constitute a quorum for the purpose of conducting the business of the Board. The President of the United States shall call the first meeting of the Board of Directors. Each Director of the Board not employed by the Federal Government shall receive compensation at the rate of $300 for each meeting of the Board he attends. In addition, each Director shall be reimbursed for necessary travel and subsistence expenses incurred in attending the meetings of the Board.

(b) The Board of Directors is empowered to adopt and amend bylaws, consistent with the provisions of this title, governing the operation of the Corporation.

(c) The Corporation shall have a President and such other officers and employees as may be named and appointed by the Board. The rates of compensation of all officers and employees shall be fixed by the Board. No individual other than a citizen of the United States may be an officer of the Corporation.

(d) In order to assemble and organize industrial participation in the carrying out of the purposes and functions of the Corporation, the Administrator of General Services is authorized to enter into contractual arrangements with any private entity or entities under which such entity or entities agrree to participate in the carrying out of such purposes and functions, including the furnishing of financial assistance in connection therewith. Such contract or contracts shall include such terms and conditions, consistent with this title as the Administrator of General Services may prescribe.

SEC. 603. (a) It shall be the function of the Corporation to select, on the basis of the best engineering information available, the two or more technically, environmentally, and economically feasible methods for producing synthetic liquid petroleum products from coal. After selection of such methods, the Corporation is authorized to design, construct, operate, and maintain a demonstration-type facility for each such method selected in order to determine the technical, environmental, and economical feasibility thereof. If on the basis of the operation of such demonstration facility the Corporation determines that the method so demonstrated is a technically and economically feasible method for producing synthetic liquid petroleum from coal on a commercial scale, the Corporation is authorized to design, construct, operate, and maintain, for each such method demonstrated, a full-scale, commercial-size facility to produce synthetic fuel from coal by such method.

(b) Synthetic liquid petroleum produced by such commercial facilities shall be disposed of in such manner and under such terms and conditions as the Corporation shall prescribe. The Corporation from the sale of such synthetic fuel shall be available to such buyer as may be authorized, by contract or otherwise, by the Corporation. All revenues received by the Corporation from the sale of such synthetic fuel shall be available to the Corporation for use by it in defraying expenses incurred in connection with carrying out its functions under this title.

(c) The Corporation shall make available, by license or otherwise, on a nonexclusive royalty free basis without territorial limitation the use of any patent obtained by the Corporation under any law of the United States or any foreign country for or with respect to any invention made in the performance of any activity conducted pursuant to this title. On and after the dissolution of the Corporation and the transfer of its patent rights in accordance with section 606 the Administrator of General Services shall administer such patent rights in accordance with the provisions of this subsection.

SEC. 604. In carrying out its functions under this title, the Corporation is authorized to enter into contracts, leases, or other arrangements; to own, manage, operate, or contract for the operation of facilities authorized by this title; to conduct research and development related to its mission; and to acquire by construction or purchase, or to contract for the use of, physical facilities, equipment, patents, and devices which it determines necessary in carrying out such functions. To carry out its functions, the Corporation shall have, in addition to the powers conferred by this title, the usual powers conferred upon corporations by the District of Columbia Business Corporation Act. Leases, contracts, and other arrangements entered into by the Corporation, regardless of the place where the same may be executed, shall be governed by the laws of the District of Columbia.

SEC. 605. (a) The Corporation shall transmit to the President of the United States and the Congress annually, commencing one year from the date of the enactment of this Act, and at such other times as it deems desirable, a comprehensive and detailed report of its operations, activities, and accomplishments under this Act, including a statement of receipts and expenditures for the previous year. At the time of its annual report, the Corporation shall submit such legislative recommendations as it deems desirable, including the amount of financial assistance needed for operations and for cap-

ital improvements, the manner and form in which the amount of such assistance should be computed, and the sources from which such assistance should be derived. Such report shall be available to the public.

(b) All reports, plans, specifications, and cost and operating data of the Corporation acquired by it in connection with the carrying out of its duties under this title shall be made available by the Corporation in accordance with the provisions of section 552 of title 5 of the United States Code.

(c) The Corporation shall make annual reports available to interested parties on the progress of its operations. Such reports shall be in sufficient detail so that independent engineering and economic judgment can be made based on such reports. Detailed drawings and other information of value to those who might be interested in commercial development shall be placed on open file by the Corporation on a continuing basis for examination by interested parties.

SEC. 606. On or before the expiration of twelve years following the date of the enactment of this Act, the Board of Directors shall take such action as may be necessary to dissolve the Corporation. In carrying out such dissolution, the Board of Directors is authorized to dispose of all physical facilities of the Corporation in such manner and subject to such terms and conditions as the Board determines are in the public interest. A share proportioned to the Federal participation in the assets of the Corporation, including the proceeds from the disposition of such facilities, on the date of its dissolution, after satisfaction of all its legal obligations, shall be made available to the United States and deposited in the United States Treasury as miscellaneous receipts. All patent rights of the Corporation shall, on such date of dissolution, be vested in the Administrator of General Services.

SEC. 607. (a) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Corporation, upon its request, any information or other data which the Corporation deems necessary to carry out its duties under this title.

(b) The Corporation is authorized to utilize, on a reimbursable basis, the services of any personnel made available by any department, agency, or instrumentality, including any independent agency, of the Government.

(c) The Corporation may procure the services of experts and consultants without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may compensate such experts and consultants without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title relating to classification and General Schedule pay rates, in accordance with section 3109 of that title.

SEC. 608. The Secretary of the Interior is authorized and directed to make available to the Corporation established by this title Federal lands under his jurisdiction (except lands within national parks, wilderness, and wildlife refuge systems, lands on the Outer Continental Shelf, lands held by the United States in trust for any Indian or Indian tribe, and lands held or owned by any Indian or Indian tribe under a limitation or restriction on alienation requiring the consent of the United States) which contain coal (1) when such Corporation determines that use of the coal oil is necessary to carry out its research program, and (2) under terms and conditions promulgated by the Secretary to protect the environment and other resource values of the lands involved.

SEC. 609. There are authorized to be appropriated to the Corporation, for the fiscal year ending June 30, 1974, the sum of $7,500,000 and for each of the next eleven succeeding fiscal years, such sums as may be necessary. All funds appropriated pursuant to this section shall remain available until expended. Notwithstanding any other provisions of this title, in no case shall funds appropriated pursuant to this section for any fiscal year be expended in an amount in excess of 75 per centum of the costs to the Corporation in connection with the carrying out of its duties under this title for that fiscal year.

SENATOR RANDOLPH SUPPORTS THE NATIONAL ENERGY RESEARCH AND DEVELOPMENT POLICY ACT OF 1973

Mr. RANDOLPH. Mr. President, it is a privilege to join with Senator JACKSON and Senator MAGNUSON and many other colleagues in introducing legislation to establish a Federal energy research management project. The bill would, in effect, provide $20 billion over the next 10 years to commercially demonstrate technologies for coal gasification, coal liquefaction, shale oil, and geothermal and advanced power cycles for the generation of electricity, to meet United States future energy requirements with domestic, not foreign, energy resources.

Many nations of the world have no choice but increased reliance on imported petroleum products, but the United States, like Russia, has the potential to develop domestic energy resources to supply levels which avoid excessive dependence on foreign sources. It would be folly, and potential catastrophe, to continue current shortsighted policies which encourage oil imports. Instead we must initiate the necessary Federal policies to capitalize on our potential long-term domestic fossil fuel resources.

There is a long list of projects that could have been pursued by industry to insure the viability of this country's domestic energy supplies. Some of the possibilities were discussed during hearings before the Senate's national fuels and energy policy study. Many of them must now be developed jointly by Government and industry if we are to face up to the challenge that our corporate long-term economic, environmental, and societal futures are at stake.

But energy is just a small part of the larger issue of people and their aspirations, with all the attendant ramifications for land use, mass transit, national security, economic growth, and the mobility of people and goods and services. Perhaps the most significant demographic factor is the location and lifestyle of future population.

Yet, the most significant constraint on energy supplies may not be the availability of energy resources but, rather, our practical ability to extract and transport these resources in the quantities envisioned. There is a limited technological and construction capability in this country which must be brought to bear in the development and construction of new technologies, new power plants, new refineries, more pipelines, and many other energy supportive facilities, as well as the retrofitting of existing facilities to meet expanded environmental requirements.

This legislation deals with but one aspect of this broad problem facing our country, it is concerned with research and development. To date, Federal policies have been insufficient in pursuing alternatives to permit us to take full advantage of our vast domestic reserves of oil and gas as well as coal—the energy resource that the United States has in greatest abundance. Current Federal energy policy emphasizes long-term nuclear solutions to electric supply problems and fails to assure the economic viability of nonnuclear and nonelectric energy supplies.

I was disturbed, again, by the lack of recognition that was given to this reality in President Nixon's February 14 environmental message. The rhetoric was there, as usual, without commitment. To quote the President:

> The energy crisis was dramatized by fuel shortages this winter. We must face up to a stark fact. We are now consuming more energy than we produce. A year and a half ago I sent to the Congress the first Presidential message ever devoted to the energy question. I shall soon submit a new and far more comprehensive energy message containing wide-ranging initiatives to insure necessary supplies of energy at acceptable economic and environmental costs. In the meantime, to help meet immediate needs, I have temporarily suspended import quotas on home heating oil east of the Rocky Mountains.
>
> Energy policy will continue to be a matter of the highest priority, as shown by my budget proposal to increase funding for energy research and development even in a tight budget year.

Yet, the administration's proposed 1974 budget for energy research and development reflects a token $61.6 million for coal technologies needed for the 1980's and 1990's and a flagrant $107 million increase to a gigantic $506 million for nuclear technologies for the 21st century.

Mr. President, I ask unanimous consent that a summary of Federal energy research funding be printed at this point in the RECORD.

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

SUMMARY OF FEDERAL ENERGY RESEARCH, FISCAL YEARS 1973 AND 1974, REFERENCE: CONSERVATION FOUNDATION LETTER, FEBRUARY 1973

[In millions of dollars]

	1973 appropriation	1974 request
Nuclear:		
Liquid metal fast breeder reactor (AEC and TVA)	272.0	323.0
Controlled thermonuclear fusion (AEC)	39.7	47.5
Current nuclear reactor technology (AEC)	88.3	135.9
Coal:		
Gasification, high B.t.u. (to obtain product comparable to pipeline gas) (OCR)	20.0	20.0
Gasification, low B.t.u. (also clean, but cheaper; for power generation) (OCR)	3.0	11.5
Gasification (conversion to clean, synthetic fuels) (Bureau of Mines)	13.7	13.1
Liquefaction (obtaining clean fuel oil from coal) (OCR)	9.4	9.0
Magnetohydrodynamics (OCR)	3.5	3.8
Fluidized-bed boiler (OCR)	.5	2.7
Clean coke and fuels (OCR)	1.0	1.5
Oil and gas:		
Offshore oil and gas (evaluation of new Outer Continental Shelf areas, accelerated leasing program, inspection) (USGS and BLM totals)	13.8	17.5
Underground explosions (nuclear fracturing to release natural gas) (AEC)	6.8	3.8
Oil shale (Bureau of Mines)	2.6	2.1
Other:		
Solar energy (NSF)	4.0	12.0
Geothermal steam (USGS, Bureau of Reclamation BLM totals)	4.1	4.0
Energy transmission and storage technologies (AEC and Interior)	2.5	3.0
Isotopes development (AEC)	5.9	2.2
Central energy research and development fund (Secretary of Interior)		25.0
Total	482.4	632.4

Mr. RANDOLPH. Mr. President, with coal generally recognized as the only domestic alternative to oil imports, it is obvious that action not rhetoric, is needed now to insure the future and essential role that domestic resources, principally coal, must serve in our energy economy.

For 20-plus years, the American people have subsidized nuclear power developed on the premise of abundant electric energy. Let us now apply this same concept and assure abundant supplies of domestic, not foreign, energy resources, compatible with environmental requirements. It is unrealistic to continue to expect that increased exploration for domestic oil and gas can alone carry the burden for success, even at higher prices.

As I pointed out during hearings before the national fuels and energy policy study on Federal energy research programs and priorities:

> Our Nation's long-term energy posture depends on the successful development of solar energy, the nuclear breeder reactor, controlled fusion, and other unconventional energy resources. First, however, we must successfully meet the requirements of the 1970's and 1980's when there will be need for the development of sulfur oxide control technology, coal liquefaction, both high- and low-Btu coal gasification, and geothermal energy sources.

Such a crash program would, of course, require massive cooperation from the private sector where the greatest expertise now exists. Yet, the very companies who possess the expertise on such technologies as synthetic fuels from coal are wary of joint Government-industry projects for fear of losing title to their proprietary knowledge. The result is unacceptable delays or even failures. This inequitable and unrealistic situation must be corrected.

The National Energy Research and Development Policy Act of 1973, is a step in this direction and is being introduced to stimulate discussion of this matter. Senator Jackson and I agree that there are several points which require clarification in any final legislation. However, these will be discussed in subsequent hearings after which I may offer amendments.

Mr. BIBLE. Mr. President, I am highly pleased to join my distinguished friend and colleague, Senator JACKSON, in cosponsoring the proposed National Energy Research and Development Policy Act of 1973 he has introduced today.

As the Senate knows, under Senator JACKSON's leadership the Committee on Interior and Insular Affairs has been engaged in a comprehensive study of the Nation's fuels and energy resources problems. This new legislation is an outgrowth of that study. It recognizes first and foremost a fact that hardly requires any elaboration. The Nation is currently suffering a critical shortage of environmentally acceptable forms of energy. A major national effort must be made to commit the necessary financial resources needed to develop new clean energy sources if we are to sustain healthy economic growth in the years ahead and improve the quality of life for generations to come.

A major weakness in the national response to the energy crisis has been our failure to formulate and mount a coordinated, aggressive research and development strategy to demonstrate and harness our huge reserves of domestic coal, shale oil, and geothermal resources. And we have focused entirely too little of our research and development capabilities on the potentially enormous benefits that may be available from solar power and other unconventional energy sources.

Over the years the Federal Government has engaged in and supported an array of new energy research projects, but its necessary contribution has lacked effective central direction. Present responsibilities and budgets for energy research are dispersed throughout too many of the departments and agencies of the Government, making it difficult to coordinate activities and to define and implement research priorities. The result has been only halting progress toward the Nation's clean energy goals.

Mr. President, it is time to stop merely bemoaning the energy crisis. It is time to reshape and strengthen the Federal Government's leadership in bringing about the research, development, and demonstration projects that are needed if we are to bring new energy sources on the line by the mid-1980's. A major restructuring of the Government's energy research activities is needed to reach that goal.

The bill introduced today calls for just that kind of reorganized energy research effort. It would establish a high-level, independent "Energy Research Management Project" to review the full range of Federal and private industrial energy research activities. The project would be headed by a full-time Chairman appointed by the President and an interagency coordinating group or board of directors composed of high officials drawn from departments and agencies currently involved in energy research and development. The Project's task would be to formulate a comprehensive energy research and development strategy for the Federal Government, including the definition of new energy R. & D. programs and activities. It would be authorized an annual budget of $800 million for use in supplementing existing Federal programs and to support new R. & D. initiatives by Federal agencies, national laboratories, universities, nonprofit organizations, or private industry—based on their special competence for particular projects. The Management Project would also identify opportunities for Government-Industry cooperation in the conduct of projects to demonstrate the technological and economic feasibility of bringing new energy sources into production.

The new bill also proposes the creation of joint Government-industry—Comsat type—corporations to accelerate R. & D. and the commercial application of a variety of new energy prospects. Separate single purpose ventures would be created to concentrate on the technologies needed to develop our coal gasification and liquefication processes, our shale oil, and geothermal resources and advanced power cycles for the generation of electricity. All four of these technologies and resources hold great promise as enormous clean energy sources. Under the bill joint Government-industry research, development, and demonstration project programs would be launched to overcome the problems that remain in the way of commercial exploitation of each technology and resource. The management of the proposed corporations would include representation by both Government and industry and both would participate in financing the projects undertaken. Federal financial participation would be limited to the amounts required to compensate for the initial development risks industry is unable to assume and Federal involvement would terminate after an appropriate development period specified in the bill.

Mr. President, America's technological breakthroughs in her space program of the 1960's and in the field of the atom and nuclear energy came about because the Nation was willing to accept those challenges and applied the resources needed to do the job. The burgeoning energy crisis is without question one of the most formidable challenges facing the Nation today. The task we face is to bring to bear on these new clean energy prospects the full force of the kind of major financial and organizational commitments called for by this legislation.

GEOTHERMAL ENERGY

Title V of this National Energy Research and Development Policy Act would establish a Geothermal Energy Development Corporation, and I want to especially applaud this feature of the legislation. Over my years here in the Senate, I have devoted considerable time and effort to the task of focusing attention on the Nation's geothermal resources as a potentially enormous clean energy source for the production of electric power—particularly in our Western States.

A recent "Assessment of Geothermal Energy Resources" prepared by Government experts for the Federal Council for Science and Technology concluded that geothermal power could provide a significant part of the Nation's electrical energy requirements, especially in the Western States, Alaska, and Hawaii, if developed to its full potential. According to that report, if a large enough research and development is developed quickly and pursued successfully, the Nation's geothermal resources could be supplying 132,000 megawatts of power by 1985 and as much as 395,000 megawatts by the turn of the century. The report called for an expanded program to coordinate and facilitate research and development activities at all levels of Government and with the private geothermal industry.

A "National Proposal for Geothermal Resources Research" prepared under the auspices of the National Science Foundation and published in December 1972 recognized not only geothermal's electric power potential, but its potential for the development of new fresh water supplies and the exploitation of commercially valuable mineral byproducts. That report called for a major 10-year research and development program to bring the resource to bear in helping to meet the energy crisis.

For anyone who has taken the time to

look, Mr. President, the Pacific Gas & Electric Co.'s geothermal power operation at the geysers in northern California stands out as a tremendously impressive example of what this resource has to offer. P.G. & E. is now producing some 84,000 megawatts of power at the geysers and expects to have 600 megawatts of steam-generated electricity on the line by 1975. Encouraging new explorations are underway in the Imperial Valley in southern California, Arizona, Nevada, and all the geothermal States in the West. Mexico has continued to press ahead with a very promising development program just south of the border, and recent press reports indicate a deepening worldwide interest in geothermal power. I ask unanimous consent that articles from the Washington Post of January 15, 1973, entitled "Geothermal Energy Eyed by U.N. as Power Source," from the Los Angeles Times of January 11, 1973, headed "Breakthrough in Geothermal Energy Seen," from the New York Times of January 11 and January 14, 1973 entitled "Geothermal Energy Held a Vast World Reservoir" and The Geyser: An Unusual Source of Energy," and an article containing some of my own observations on our geothermal development problems that appeared in the February 15, 1973 issue of the Geothermal Report be printed in the RECORD following my remarks.

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

(See exhibit 1.)

Mr. BIBLE. Mr. President, geothermal research and development has suffered and been impeded by the same fragmentation of effort and the same inadequate funding that has characterized our efforts on other new energy sources. There is no centrally coordinated national effort. The current Federal interest in geothermal research, planning, and development is dispersed throughout about 10 departments and agencies of the Government including: The Department of the Interior, the Atomic Energy Commission, the National Science Foundation, the Federal Power Commission, the Department of Defense, NASA, and the Environmental Protection Agency. Such fragmentation invites wasteful duplication of effort. Steps must be taken to effectively coordinate and strengthen all the Government's activities in this area if there is to be any realistic hope that this new power source can be brought on the line over the next decade.

Against this kind of background, Mr. President, I feel very strongly that the national interest and the challenge posed by the energy crisis will be well served by mounting the kind of comprehensive geothermal research and development program envisioned by the energy research management project and Geothermal Energy Development Corporation proposed by this new legislation.

I urge prompt hearings on the bill and early enactment of this kind of legislation.

EXHIBIT 1

GEOTHERMAL ENERGY EYED BY U.N. AS POWER SOURCE

(By Anthony Astrachan)

NEW YORK.—The United States and the United Nations are moving to make geothermal power one of the answers to the world energy crisis, officials report.

At a seminar at the United Nations, they described geothermal energy as cheaper and cleaner than conventional or nuclear fuels and likely to be found in far larger amounts than previously predicted. This energy is the heat from molten rock beneath the earth's crust. It can be converted into electricity and can be used to heat buildings, desalinate seawater and extract minerals from the steam or hot water that carries the energy.

A National Science Foundation panel headed by former Interior Secretary Walter J. Hickel recommended last month that the federal government set up a $684.7 million research and development program on geothermal energy.

Hickel said that this would lead to production of 132 million kilowatts of geothermal electricity in the United States by 1985 and 395 million KW by 2000. The latter figure is more electric power than the country now produces from all sources.

Joseph Barnea, director of the U.N. Department of Resources and Transport, said geothermal production on this scale would save the United States an estimated $26.7 billion a year in foreign exchange that would otherwise be spent on imported oil and gas.

The only geothermal field now in production in the United States has a 294,000-KW capacity and is used to provide part of San Francisco's power needs. Another field is expected to open soon in California's Imperial Valley.

The federal government is expected to release 58 million acres of public land in March for leasing or geothermal power, under a law passed in 1970. Reid Stone of the Interior Department said that in practice, 100,000 acres a year of the most likely land would be put up for auction to the highest bidder.

No legal entity can lease more than 25,000 acres in any one state. The law requires development within 10 years of the lease date and rentals are expected to be imposed on an escalating scale to keep up with new technology and market requirements and to answer possible charges of another federal giveaway of public lands for private profit.

Barnea said the world now produces about 1 million KW of geothermal energy in Iceland, Italy, Japan, New Zealand and the United States.

A field is scheduled to open in March in Mexico and another is planned for October, 1974, in El Salvador.

The United Nations is financing geothermal research projects in a dozen countries. The most promising are in Ethiopia, Kenya, Nicaragua, Chile and Turkey. Geothermal fields are most likely to be found in rift and recent volcanic areas; Barnea estimated that 80 nations will turn out to have economic geothermal energy fields.

The U.N. seminar estimated the cost of geothermal electricity at 3.6 mills per kilowatt-hour compared to 5 mills for most fossil fuels and far more for nuclear fuels.

The investment per kilowatt is estimated at $110 to $125 for "dry" geothermal energy like that used in the Geysers Field near San Francisco, and $225 for "wet" energy, full of minerals and using hot water rather than steam, like that in the Imperial Valley.

Joseph Aidlin of Magma Power Co., a pioneer developer of geothermal technology, predicted the wet figure would soon go down to $175.

He put the cost of investment in electricity from hydrocarbons at $250 per kilowatt, $300 to $325 for coal and $550 for nuclear power.

Geothermal electricity is cheaper because it involves much simpler technology, using steam or hot water directly from the ground to turn turbines which generate power.

So far this has restricted its use to relatively small power plants in the vicinity of the geothermal field. Charles Baldwin, a consultant to the California Senate, pointed out that geothermal energy can be used only for baseload power because it cannot be jacked up to meet peak demands or lowered to match lulls. In developed countries, it thus becomes a substitute for additional expensive power rather than a total replacement.

Geothermal enthusiasts say their energy is clean because it brings only water to the surface ecology. It has nothing to compare with water pollution from oil spills, or black lung disease from coal-mining.

Baldwin noted, however, that the minerals that come up with geothermal steam or water can hurt people and machinery, like the sulfuric acid that has turned up in some fields or the 100 tons of arsenic that the Old Faithful Geyser puts into the Yellowstone Park air every year.

Such minerals can be reinjected into the ground. Useful minerals can be "mined," like the magnesium chloride found in Ethiopian steam in much richer concentrations than in the sea. Idle storage of unwanted minerals was rejected as uneconomic.

Baldwin also pointed out that subsidence or dropping of the earth's surface as water is extracted can be a problem. Aidlin claimed that dangerous subsidence already has been anticipated and encountered in geothermal engineering.

BREAKTHROUGH IN GEOTHERMAL ENERGY SEEN

(By Don Shannon)

UNITED NATIONS.—The utilization of power from the earth's heat is at the "beginning of a breakthrough," a U.N. official said Wednesday at the close of a three-day conference on geothermal energy.

Joseph Barnea, head of the U.N. resources and transport division in the department of Economic and Social Affairs, said geothermic sources have been found in 80 nations and development is underway in a dozen, including the United States.

"It's the only clean energy other than hydroelectric," Barnea told newsmen after the informal meeting.

Despite its nonpolluting nature, development of natural hot water and steam sources in the United States has been retarded by federal laws protecting the environment, the officials said. No leasing has yet taken place on 58 million acres of federal land in the western United States opened under a 1770 law, but is expected to begin soon, he said.

OPERATION COST

Barnea claimed that geothermal power plants can be put into operation at a cost of only $125 per kilowatt of installed capacity, compared with $500 per kilowatt for nuclear plants and $200–300 for oil or coal burning plants. He conceded that generating costs may run considerably higher than with oil or coal, although only about half the rate of nuclear power production.

The U.N. official contended that natural sources can be used for purposes other than power, such as providing water for drinking and irrigation in arid regions after the removal of heat. Geothermal water may even be a source of minerals in some cases, he said.

Barnea cited a report sponsored by the National Science Foundation and the University of Alaska, written by former Secretary of the Interior Walter J. Hickel, which estimates that 132,000 megawatts of geothermal capacity could be "on line" in the United States by 1985. This figure could be increased to 395,000 megawatts by the end of the century, the report said, an amount exceeding the total U.S. generating capacity now.

"The cost of hydrocarbons is steadily rising," Barnea said, "whereas the cost of

steam from a geothermal reservoir is determined solely by the cost of finding the steam and by the prices the electricity industry is willing to pay for the steam."

THE GEYSERS FIELD

During the conference, facts emerged which contradicted Barnea's stand at times. The Geysers, a Northern California geothermal field where power is now being produced, came on at a cost of $125 per kilowatt of generating capacity but the source is dry steam, rated by one participant as the most economic producer likely to be found anywhere.

Mexican officials reporting on the nearly completed Cerro Prieto power plant, scheduled to go into operation in March near Mexicali, told the conference it will cost nearly $350 per kilowatt of installed capacity. They explained that the extra expense resulted from drilling several unsuccessful wells, which can be used for reinjection, however.

The Mexicans also indicated that there may be pollution problems other than the disposal of brine from the plant. In addition to steam and water from the deep wells, they conceded that there will be a discharge of sulfuric gas which could cause air pollution if prevailing winds fail.

Oil company representatives during the conference also questioned the economics of geothermic power production, but Barnea chided them as being too conservative.

GEOTHERMAL ENERGY HELD A VAST WORLD RESERVOIR

(By John Noble Wilford)

UNITED NATIONS, N.Y., January 10.—Energy experts from around the world met here this week and generally agreed that one of the most promising new sources of relatively nonpolluting power is the natural heat of the earth's core—geothermal energy.

Within 50 years, according to one optimistic estimate, geothermal energy may become a resource even more significant than petroleum. At least 80 nations are thought to have geological conditions indicating a substantial reservoir of such energy.

But the experts also noted a number of obstacles to the full development of geothermal energy. These include the continuing reluctance of governments and industry to take geothermal energy seriously, the lack of systematic exploration of its potential, and the failure of most nations to exchange information on the subject.

The three-day seminar on geothermal energy, which ended today, was sponsored by the United Nations Department of Economic and Social Affairs with the assistance of the Center for Energy Information, a nonprofit foundation involved in supporting the development of nonconventional energy sources.

OBSERVERS FROM INDUSTRY

Among 250 participants were a number of officials of the American petroleum and utility industries. Their interest has been whetted by the Department of the Interior's plan to lease 58 million acres of public lands in the West for geothermal exploration.

At present, the only exploited geothermal field in the United States is at The Geysers, near San Francisco.

The source of most geothermal energy is the molten rock, or magma, in the earth's interior. When underground water comes into contact with the magma, hot water and steam are produced. Where this occurs in large quantities and within a few miles of the surface, the steam and hot water can be tapped and used to turn the turbines that generate electricity.

The most promising areas for exploration line near earthquake faults, volcanic regions and hot springs and geysers.

At the United Nations meeting, the energy experts attempted to lay to rest what they said were three misconceptions about geothermal energy—that it was rare in nature, was generally uneconomical to exploit and was primarily a source of electric power.

NOT "A FREAK OF NATURE"

Although fewer than 15 countries are attempting to tap such energy, and so far only on a small scale, Dr. Joseph Barnea, director of resources and transport at the United Nations, said new estimates indicate it is not "a freak of nature."

Soviet experts, Dr. Barnea said, have estimated that the geothermal potential in their country "is probably equal to the combined U.S.S.R. resources of petroleum, coal and lignite."

Through United Nations technical assistance programs, Kenya and Ethiopia are tapping the geothermal energy stored in the African rift valley. Similar United Nations efforts are being made in Turkey, Chile, El Salvador and Nicaragua, Italy, Japan, Iceland, New Zealand and Mexico already have geothermal power plants.

A report last year by the National Science Foundation and the University of Alaska estimated that 132 million kilowatts of geothermal electricity could be generated in the United States by 1985 and 395 million kilowatts by the year 2000. The latter figure would represent an output greater than the total electricity generating capacity of the United States today.

"It should be borne in mind," Dr. Barnea said, "that we have geothermal energy in practically every geological environment, whereas petroleum is restricted to the sedimentary areas of the world. In 50 years, geothermal energy will be recognized as an energy resource of even greater significance than petroleum."

LOWER COSTS FORESEEN

As for the economics of the energy, the experts heard a report prepared by the Public Service Commission of the State of New York in which it was estimated that by 1975 the capital costs of nuclear power plants would rise to $500 per kilowatt capacity, compared with $200 to $300 for coal or oil plants and $100 to $150 for the geothermal plants.

The experts conceded, however, that they had no basis for estimating the costs of exploring geothermal fields.

Dr. Barnea emphasized that geothermal energy should not be thought of solely as a source of electricity. Some of the lower-temperature hot waters may not be suitable for power generation, he said, but they could be used in desalination, mineral extraction and house heating.

As a matter of fact, interjected Dr. Robert W. Rex of the Pacific Energy Corporation, it might even be possible to heat the United Nations headquarters by drilling some 20,000 feet into the Manhattan bedrock.

Heat from the decaying radioactive elements (potassium, thorium and uranium) in the Manhattan schist, Dr. Rex said, probably gives off enough heat to act as an underground boiler for the heating system of the United Nations and other New York buildings.

"It would be a dramatic way of showing the possibilities of geothermal energy," Dr. Rex added.

THE GEYSER: AN UNUSUAL SOURCE OF ENERGY

(By William D. Smith)

The threatening energy crisis is causing a growing number of scientists, businessmen and government officials to take a second look at an awesome but long-ignored source of energy: geothermal heat.

The geysers, hot springs and vapors that have fascinated man through the ages are surface manifestations of geothermal heat, which some experts now contend will provide an important answer to the world's energy difficulties.

Already The Geysers area north of San Francisco is supplying commercial electric power. Three companies—the Magma Power Company, the Thermal Power Company and the Union Oil Company of California—sell steam from the field to the Pacific Gas and Electric Company.

The field has a capacity of 302,000 kilowatts. And the utility has said it plans to add 100,000 kilowatts.

There is now a total of more than one million kilowatts of power being generated from geothermal sources in the United States, Italy, New Zealand, Mexico, Japan, Iceland and the Soviet Union. About 10 other countries have plants for harnessing geothermal energy in operation, under construction or in the planning stage.

The proponents of using geothermal heat to meet threat of an energy crisis argue that:

Geothermal reserves are, for all practical purposes, unlimited. (The heat stored to a depth of just six miles under the surface of the United States alone is equivalent to the energy derived from busing 900 trillion barrels of oil.

Technology is available to capture a portion of this vast reserve.

Costs have been shown to be comparable with other energy sources.

In environmental terms, geothermal heat is clean energy.

In addition to generating power, it can provide heat for homes and factories, create artificial environments for agriculture and provide a major source of desalinized water and minerals.

Most geothermal energy comes from the molten rock, or magma, of the earth's interior. Hot water and steam are produced when underground water comes into contact with the magma.

The first harnessing of geothermal energy took place in Italy in 1904 when steam from the Larderello field was used to push the blades of an electrical generating unit.

The National Science Foundation estimated last year that 132 million kilowatts of electricity could be generated by geothermal energy in the United States by 1985 and 395 million kilowatts by the year 2000.

Some scientists predict that geothermal energy will be providing 10 to 20 per cent of the nation's electrical generating requirements by 1985. However, the National Petroleum Council, an oil industry group that advises on Government policy, says that geothermal sources will be providing only 1 per cent of the nation's electric power by 1985. A number of geothermal scientists contend that the oil industry has been slow to come to grips with the realities of geothermal energy.

G. E. Facca, a leading independent geothermal consultant, says that the biggest stumbling block to geothermal development is "the mind."

Dr. Facca declared: "What businessmen don't know they often try to ignore. The United States has in the past been backward in pursuit of geothermal energy but is closing the gap fast."

Joseph Barnea, director of resources and transport at the United Nations and a pioneer in the geothermal field, says its development has been hampered in the past for several reasons, including the availability of conventional hydrocarbon fuels, a widespread belief that geothermal heat is limited to few places in the world and lack of venture capital.

The main problem now is "Institutional," according to Dr. Barnea. He said: "Geothermal is classified as neither fish nor fowl with regard to other energy and so suffers. At the present time exploration, development and production of geothermal resources requires some 40 permits and licenses."

A measurement of the growing interest in geothermal energy will come during the next few months when the Government begins a geothermal lease program on Federal lands.

The number of companies bidding and the size of the bids should indicate the immediate future of geothermal energy. The leasing program was made possible by the Goetherman Steam Act of 1970. A total of 58 million acres in 14 Western states will be up for bids.

Last week the United Nations sponsored a three-day geothermal seminar with the assistance of the Center for Energy Information, a nonprofit foundation that supports the development of nonconventional energy sources.

The meeting drew some 250 participants, including oil, mining and utility executives. A professor with many years in the field commented: "A few years ago a seminar on geothermal entrgy would have drawn a collection of scientists, academics and way-out research types. Now these gatherings are beginning to look like a list of the Fortune 500."

Theoretically, geothermal energy can be tapped at any point on earth simply by drilling a deep enough hole, providing a passage for heat-transfer fluid and extracting the heat. Practically, much of the earth's molten mass is too deep to reach. However, deposits of thermal energy can be found at relatively shallow depths in areas of recent volcanism and earth-crust shifts such as the earthquake belt running from Alaska to Central America.

There are basically two types of geothermal reservoirs: dry steam and wet steam.

Dry steam, under pressure and at high temperatures, is used directly to turn turbine blades as in the Geysers field.

Wet steam seems to be 20 times more abundant and can not be used directly for electricity generation. In these fields, hot water from the ground is used to vaporize a low-boiling-point fluid, which in turn drives the generating turbine.

Speakers at the U.N. seminar said that capital costs of geothermal development were about $150 per kilowatt capacity, compared with $200 to $300 for fossil-fuel plant and $500 for nuclear plants.

The National science foundation's report estimated that, if geothermal energy fulfills the role projected for it by the agency, the United States would improve its balance-of-payments position in 1985 by about $8.9-billion because of the reduced need to import fuel.

There would appear to be a lot of good reasons to pay serious attention to the hidden resources of the earth's heat.

SENATOR BIBLE SEES LACK OF URGENCY ON GEOTHERMAL LEASING, ADDRESSES POLICY ISSUES

NOTE: Senator Alan Bible (D-Nev.) is author of the Geothermal Steam Act of 1970 and, of course, needs no introduction to those closely involved in the geothermal field. After too long, in the view of many, this is the yr. that leasing under the Act gets off the ground and many feel 1973 will see geothermal come alive. Sen. Bible, a mainstay of Senate Appropriations, Interior and Senate-House Atomic Energy Committees, will be looked to for leadership and guidance both as Congress keeps close watch over the leasing program and considers proposals for expanded geothermal research-development. He sets forth some of his views in the following on-the-record interview with Geothermal Report.

Q. Your colleague, Sen. Goldwater, accuses U.S. geothermal efforts and development of being a "Johnny-Come-Lately" compared to things underway in Russia, Japan, New Zealand, Italy, Mexico and other countries. Why has U.S. geothermal development lagged?

Sen. Goldwater is absolutely right. I have been reciting the history of geothermal resource development in other countries over and over since I introduced my first geothermal steam leasing bill back in 1962. Italy harnessed geothermal wells for electric power generation back in 1904, and is now producing about 390 megawatts of electricity in 14 steam plants. New Zealand has been pioneering the resource since the mid-twenties at least. Their Wairakei geothermal plant has a capacity of about 192 megawatts. Broadlands plant is expected to bring another 120 megawatts on the line in 1976. Russia has been exploring and mapping the resource on a grand scale and is reported to have about a dozen geothermal projects in operation. Mexico has been pursuing the resource for two decades now. Its Cerro Prieto plant is expected to start-up momentarily with 75 megawatts of geothermal power. Their program is being pushed vigorously in the area just south of the border. And Japan has a very active development program underway.

Except for the tremendously impressive geothermal operation at The Geysers in Calif., there is no question that the U.S. has lagged behind. Several problems have impeded development. I think our abundance—until lately—of more conventional energy sources has played a part. The natural tendency has been to concentrate attention and investment on our better known resources, rather than take the risks associated with a little-known resource like geothermal. However, until we succeeded in getting the Geothermal Steam Act approved in 1970, the biggest stumbling block was the U.S. Govt. Vast reservoirs of geothermal energy are located beneath the public domain lands in the West. The Govt. felt it lacked legal authority to open the public land for exploration and development and actually withdrew known geothermal lands from all forms of mineral entry because of the presence of the resource. The 1970 Act was needed to open the land and provide a clear-cut statutory system for leasing lands for development.

Q. You sponsored the Act of 1970 to open up Federal lands for exploration of a new energy source against a background of impending energy shortages and increasing costs. Geothermal development would be spurred under the Act via leasing the public lands. Now, two yrs. later, why has it taken the Interior Dept. so long to implement the program?

I wish I had a clearcut answer to that question. I do not. The Dept.'s delay in promulgating the regulations needed to implement the 1970 Act has been very frustrating. I understand they have encountered some problems in developing the necessary environmental impact statements. I also understand how important it is to carefully and fully consider all the environmental consequences. I do not understand why it should take more than two yrs. to get the job done. The Administration has talked a good case about need to get on with exploration of new clean energy sources, including geothermal, but their performance on this subject has been completely unacceptable so far as I am concerned. There seems to be no sense of urgency at all about getting the leasing program underway. My latest information is that the final environmental statement and the regulations will be forthcoming in the next mo. or so. I hope so, but in view of the record so far, I make no firm predictions.

Q. Environmentalists-conservationists led by Sierra Club oppose geothermal. Why would you suppose conservationists, against conventional-type powerplants for most sites, would oppose a new, clean, natural energy source such as geothermal wells?

I question accuracy of that statement. I am sure the Sierra Club and the environmentalists and conservationists throughout the country support the development of new clean energy sources. They are naturally—and properly—concerned that full and careful consideration be given to the environmental consequences of geothermal development. As I see it, their interest in this area is consistent with our national policy to assess programs with full knowledge of their impacts on the environment in order to minimize adverse effects. Geothermal is certainly a relatively clean energy source compared to fossil fuels. However, questions have been raised concerning possible effects on the environment, such as localized noise, air and land pollution, land subsidence, and possible seismic effects. All require careful examination and research and are areas of legitimate concern.

Q. On leasing program delays again, Interior officials say the Environmental Impact Statement for the program is taking more time than anticipated, that "Quality of Life" and like environmental reviews are being added on at every turn. Is there too much environmental red tape straddling the Federal development program?

I do not view the assertion of bona fide environmental concerns as "red tape." There can be no question that all such questions deserve special and careful scrutiny. Certainly the day has long since passed when any responsible officials would think of this as "red tape." The obligation of the people at Interior and elsewhere in the Govt. is to adhere fully to the letter and spirit of our national environmental policy laws. Certainly, the requirements of these laws impose heavier burdens on the bureaucracy. The task is to meet the questions head-on. Bring the necessary talent and manpower to bear on the problem and get the job done. Also, as I have said, this takes a sense of urgency I have not yet detected.

Q. Early exploration and geophysical studies conducted by Dr. Rex and others indicate huge reserves, 2.5 million acre-ft. of fresh water and 10,000 megawatts of electrical power at the minimum in the Colorado River Basin alone. Are these estimates overly optimistic?

Dr. Robert W. Rex is unquestionably one of the nation's most experienced and knowledgeable experts when it comes to evaluating the geothermal potential of the Imperial Valley in southern Calif. and the Colorado River Basin. I am sure his estimates of the fresh water and power potential in the basin have been carefully developed, but I am no geologist and will have to leave his figures to the experts. The Imperial Valley has been the scene of significant geothermal exploration on both the American and Mexican sides of the border. And there is general agreement that it is one of our most promising areas. Under the Colorado River Basin Project Act of 1968, the Bureau of Reclamation has for a no. of yrs. now been engaged in an investigation of the Valley's geothermal resources as a means of augmenting the flow of the Colorado. According to their reports, there are substantial quantities of low salinity water associated with the Valley's geothermal resources that might be used not only to augment the Colorado but for irrigation and municipal uses as well. Not to mention electric power generation. Also—and very significantly, I think—in the same valley, just a few miles south of the border, the Mexicans are now to operate a 75 megawatt geothermal plant and will produce substantial amounts of desalinated water. There is no question in my mind that work being done in that part of the country should be pressed ahead.

Q. If these estimates of Rex and others aren't optimistic, why can't this nation marshal its forces to go ahead with development? Why leave such immensely valuable natural treasure lie there fallow?

Some yrs. ago, I characterized our nation's geothermal resources as a sleeping giant among our nation's energy reserves that ought to be awakened and put to work. I agree that such an enormous potential for clean power generation, new fresh water, and the hard mineral by-products that may

be involved cannot be permitted to lie fallow. The record we developed in connection with the Geothermal Steam Act indicates that given the opportunity to lease public lands for geothermal exploration and development, private enterprise will be ready, willing and able to get on with the recovery of the resource. A concerted effort was made to structure the 1970 Act to make geothermal development an attractive investment while, at the same time, protecting the general public's interest in the resource. A necessary first step is to get on with the leasing program.

Q. Do you anticipate sponsoring accelerated geothermal development legislation this yr.? Or any other geothermal legislative proposals?

Mine is a continuing interest in all constructive proposals to advance the exploration and development of the resource. One aspect of the problem that gives me some concern is the present lack of any single authoritative body within the Govt. to serve as a clearinghouse for information, coordinate projects, and implement an aggressive national program. Nine executive dept.'s and independent agencies are now involved one way or another in geothermal matters. A centrally-directed national effort to marshall U.S. resources and bring them to bear in a coordinated fashion is needed, and proposals along these lines are now under study. The States—particularly those with geothermal resources—have a real stake in this also. I think we have to consider how the Federal Govt. might assist their efforts. Proposals in that area are also being considered.

Q. If you agree tempo should be picked up in the U.S., would you support an accelerated program, perhaps something along lines of the Goldwater-Fannin resolution for putting Congressional support and funding behind a national geothermal effort?

As I recall, the Goldwater-Fannin Resolution focused specifically on the water problems besetting most of our Western States. It asked Congress for greatly increased support of BuRec's geothermal program to develop new fresh water supplies throughout Western States. I wholeheartedly support that approach. Geothermal's promise of new fresh water for the West is one of its most appealing aspects. I agree tempo of the Govt's activity should be increased. In addition to BuRec, other agencies such as the Atomic Energy Commission have unparalleled scientific talents and facilities that should be brought to bear on developing the techniques and technology needed to exploit the resource economically. In the last Congress, I proposed a Nuclear Geothermal Power Research and Demonstration Projects Act under which AEC in cooperation with industry would mount a multi-yr. program to ascertain feasibility of recovering geothermal energy from dry—so-called "hot rock"—geothermal formations through use of nuclear technology. The beginning of such an effort was authorized and funded in fiscal yr. 1972, but the Administration has withheld the money for the project. I think this kind of effort and other cooperative efforts by govt. and industry should be emphasized.

Q. The recent Hickel study predicted 132,000 megawatts of geothermal electricity in the U.S. by 1985, or about 20 percent of the country's installed electrical capacity; it assumes a national research-development over those yrs. of $685 million. The question again, are these no.'s realistic?

The Hickel estimates were formulated by very knowledgeable experts from throughout Govt. and industry. The estimates have survived broad scrutiny, and are predicated on a comprehensive research program for the next decade. It's difficult at best to project 10-yr. costs, but relying on the experts, I think one can feel the no.'s have been carefully developed.

Mr. CHURCH. Mr. President, I am joining the chairman of the Committee on Interior and Insular Affairs (Mr. JACKSON) and a number of other Senators in introducing a bill to establish a coordinated Federal approach to research, development, and demonstration of fuels and energy technologies. If enacted and funded, this measure will be a substantial and constructive step toward solving the short- and long-term energy problems facing the United States.

As the Interior Committee's study of national fuels and energy policy has progressed over the past 2 years, nearly every major issue which the committee has investigated has been found to include a significant research and development component. If an aggressive program on energy technologies had been pursued by industry and Government in the past, we would have many more policy options available for solving the problems we face today. To cite only a few examples, technologies for the gasification of coal and the production of oil from shale have been on the verge of commercial application for years, but the remaining development work has not been undertaken. Great portions of our domestic fuel resource cannot now be used because pollution control technologies have not been developed, and, even now, research and development in pollution control are inadequate. Many options to improve pollutant removal, such as advanced power cycles, are receiving little attention.

The production, conversion, and use of energy is exceedingly inefficient. For example, we recover only about 30 percent of the oil from the average developed reservoir, and the conversion of fuels to electricity results in a loss of two-thirds of the energy. Very little research and development is being done to reduce these losses.

The unconventional sources of energy have been largely ignored. The United States possesses a vast geothermal resource which has been used for very small applications for many years. No real efforts have been made until very recently, however, to inventory the resource or to perfect technologies which would extend its utility to major powerplants and industrial applications.

Especially in the western States, geothermal resources have the ability to provide a substantial portion of future electrical energy demands. It has been estimated that nearly 400,000 megawatts of electric generating capacity based upon geothermal energy could be installed in the United States by the year 2000 if an active research and development effort were initiated quickly. This amount equals the nation's total present installed generating capacity of all types. The geothermal resource, therefore, is potentially an important part of the Nation's energy future.

My own State of Idaho and the Pacific Northwest region have in the past been heavily dependent upon hydroelectric power. Most of the hydroelectric dam sites are now in use, however, and development of many of those which remain would entail the loss of unique natural areas and the few remaining wild river reaches in the region. The State and the region's increasing electric demands must be met from alternative sources.

There is geologic evidence that much of Idaho is underlain by an extensive geothermal resource. The Snake River Plain is a recent volcanic area and thermal springs exist at many points. Very little active field exploration has been done, but the evidence indicates that there are hot rock formations close to the surface. Coupled with the water which is available in the Snake Plain aquifer, the heat energy from these formations could provide a major source of renewable, environmentally desirable electric energy for the Pacific Northwest.

Federal support to unlock the geothermal potential of the western United States has been minimal. In this fiscal year Federal funding for all geothermal research is only $3.4 million. The President's budget for fiscal year 1974 proposes only $4.1 million.

Much of the experience and nearly all of the current research is concerned with readily accessible dry steam fields, such as the Geysers development in northern California, and with hot water deposits which have been identified. More work needs to be done in each of these areas, but the total potential energy available from such deposits is limited. By far, the most enormous geothermal energy potential is in dry hot rock formations. If appropriate technologies can be developed, this resource can conceivably meet a major part of our energy needs for several centuries.

Title 5 of the measure which I am cosponsoring would establish a Geothermal Energy Development Corporation. The corporation would provide up to 80 percent Federal financing for a joint Federal-industry effort which would culminate in full-scale, commercial-size geothermal facilities to produce electricity. The Federal assistance would be adequate to overcome the risk of investment in the venture, but the industrial partners would have a real voice in management commensurate with their financial participation.

When the demonstration phase of the venture is completed, in 15 years or less, the Federal involvement would terminate.

This kind of single-purpose, goal-oriented management is essential if geothermal energy is to be transformed from its present role as a scientific curiosity into a substantial energy source. To formulate sound national energy policies now and in future generations, we shall need the widest range of energy options possible. We can no longer afford to deny ourselves the choice of using our vast domestic energy resources in environmentally acceptable ways. We must have the ability to choose that policy alternative if it becomes necessary.

Mr. WILLIAMS. Mr. President, this winter we have faced greater energy shortages than possibly during any period of our history. Schools and factories have been closed sporadically throughout the Midwest because of a lack of fuel

oil. And, in New Jersey, oil and gas wholesalers have been told that they will have to ration gasoline this summer.

To stave off these immediate problems, there has been a temporary elimination of quotas on some oil imports. Hopefully, the administration's approach will enable us to avoid harsh shortages if we are fortunate enough to continue to have unseasonably warm weather.

However, this was a necessary short-term reflex action to a crisis and certainly does not provide adequate long-term relief.

I am very pleased to join Senator JACKSON in sponsoring the "National Energy Research and Development Act of 1973." In my judgment, this is one of the most important pieces of legislation related to scientific research that Congress has ever considered. The comprehensive study of national fuels and energy policy, conducted by the Senate Interior Committee pursuant to Senate Resolution 45, has revealed that expanded research and development offers the most promising approach to meet the energy problems facing this Nation. Yet the level of Federal energy research has been woefully inadequate and the administration is continuing to pursue an equally woefully inadequate course.

We now realize that providing a sufficient supply of energy will be one of this country's great challenges in the next decade. Unfortunately, the administration has met this challenge only from a dangerously narrow perspective and with little promise for the future.

Apparently, Mr. Nxon hopes that we will endorse his program to concentrate on promoting nuclear power. While he has told us that fast breeder nuclear reactors create more fuel than they consume as they create electricity, he has neglected to point out that plutonium, the fuel for breeder reactors, remains radioactive for about 240,000 years, that its disposal is a substantial problem, and that the breeder reactor technology still contains many gaps and shortcomings.

As a matter of fact, the Washington Post recently had an article which stated that the first fast breeder nuclear electric plant, under construction now, has suffered a 1-year construction delay and an $85 million cost overrun. With the potential catastrophic environmental problems and now these technological and financial difficulties, I cannot fathom why we are pursuing this project to the exclusion of other alternatives.

The Interior Committee's study indicates that viable and safe alternatives exist which, with a solid commitment, can be realized within 10 years. This bill intends to make the United States self-sufficient in the production of energy within 10 years.

Although this may seem overly ambitious to some, I suggest that it is realistic when we consider the resources that are available in this country. Coal is extremely abundant, the National Science Foundation is convinced that we can harness solar energy for many needs in less than a decade, and a supply of geothermal energy is already being used successfully to a limited extent in the western part of the country.

Senator JACKSON's bill would provide the money and authority to enable the United States to assume a position of world leadership in the development of safe, basic energy sources.

One point which makes this bill particularly important is that it sets self-sufficiency as an attainable goal. In New Jersey, we are threatened by the administration's apparent interest in constructing deepwater ports used for oil importation. These ports would be constructed to accommodate supertankers which transport crude oil most efficiently from the Mideast.

I see several problems with this proposal. First, the construction of such a port would necessarily entail extensive industrialization and involves the potential for massive oil spills and related pollution, all of which would destroy the present exceptional recreation opportunities of the areas involved. Second, it also indicates a national policy necessarily involving dependence on Mideast oil which means reliance on the governments of a politically unstable area. Third, it would substantially increase our balance of payments deficit.

The Washington Post also recently printed an article on the role played by Middle Eastern oil money in the latest attacks on the dollar in European money markets. I believe that we must move away from providing foreign governments with vast amounts of dollars merely because we are unwilling to invest in American resources.

We have waited several weeks now for the President's energy message. However, a reading of the energy research and development proposals in the budget indicates that the administration would have us pursue a reckless course toward more nuclear power with a nominal increase in funding for the technologies which may have the most promise in this country.

I commend Senator JACKSON for his diligent study and great understanding of the energy problems we are facing. He brings to us a proposal which will enable the United States to move forward on possibly one of our greatest adventures—the harnessing of the elements and conditions around us to produce the energy in a manner which enhances rather than imperils life. His leadership on this issue is a source of encouragement to those of us who are greatly concerned about our present energy difficulties and who are dismayed by the absence of positive leadership by the administration.

I warmly embrace Senator JACKSON's bill, the National Energy Research and Development Policy Act of 1973, and urge that the Senate consider this important legislation as soon as possible this year.

I ask unanimous consent that the two articles I mentioned be printed at this point in the RECORD.

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

DELAY, OVERRUN HIT A-PLANT

(By Thomas O'Toole)

The model for the nation's first fast-breeder nuclear electric plant has suffered a one-year construction delay and an $85 million cost overrun. The problems ultimately could delay operation of the main fast-breeder plant itself.

President Nixon has made the fast breeder a national goal and set a 1980 target date for completion of the first one, at Oak Ridge, Tenn.

"Everything is being done to have the breeder demonstration plant ready to operate by the target date," said Milton Shaw, director of reactor development for the Atomic Energy Commission.

"Our chances of meeting that date are 50–50."

In his energy message to Congress 21 months ago, President Nixon called the fast breeder one of the country's brightest hopes for easing a chronic shortage of energy.

"Because of its highly efficient use of nuclear fuel," the President said, "the breeder reactor could extend the life of our natural uranium fuel supply from decades to centuries, with far less impact on the environment than the power plants which are operating today."

Meeting the target date for the fast breeder depends to a large extent on the experience the AEC has with the fast breeder prototype—a plant now under construction at Hanford, Wash., called the Fast Flux Test Facility. It is this plant that has suddenly been hit by sizable cost overruns and construction delays.

The AEC told Congress' Joint Committee on Atomic Energy that costs of the Hanford prototype have skyrocketed in the last year from $102.8 million to $187.8 million, delaying completion of the plant from February, 1974, to June, 1975.

In a letter to the Joint Committee, AEC general manager Robert E. Hollingsworth conceded that the Hanford plant could incur additional costs of more than $30 million that could delay completion of the plant another year, to May, 1976.

"Despite the fact that a number of the most difficult and costly plant components are nearing completion," Hollingsworth said in the letter, "realistic work plans with revised cost and schedule estimates are not yet agreed upon by the key participants."

Hollingsworth said that some contractors believe the plant can be finished in June, 1975, for $185 million, while others don't think it can be completed before May, 1976, for anything less than $220 million.

The AEC put the blame for the delays and cost overruns on a range of reasons, from a change in contractors and a shortage of experienced engineers to underestimating the complexity of the job.

"I never dreamed . . . I never thought we'd be so short of technology," the AEC's Shaw said. "We've had to go back and redesign every one of the pumps and valves we're using in this plant."

The Hanford plant will use liquid sodium metal to cool its fast-flux nuclear reactor. That has placed special stress on the pipes, pumps and valves that move this corrosive and reactive around the reactor core.

Shaw said the six sodium pumps that will be installed in the Hanford plant have ended up costing $2 million apiece, eight times the original estimate. Twelve valves to be used in the plant cost $800,000 each, again at least eight times the estimate.

"We had $4.5 million invested in the design of these valves when we had to change contractors," Shaw said. "We ended up investing another $1 million just in the design, even after we pulled out of the first contractor."

Shaw insisted that the delays at Hanford do not automatically mean delays at the first breeder plant to be built at Oak Ridge, which will be the first plant in the United States to produce more nuclear fuel than it consumes. Shaw said the large components

of the Hanford plant will be identical to the ones to be used at Oak Ridge.

"We're absorbing trouble at Hanford," he said, "so there will be none at Oak Ridge."

Not everybody in the nuclear power business agrees with Shaw, either on the cost estimates for Oak Ridge or on the construction timetable. The plant is scheduled for completion at a cost of $500 million, but one reliable source said it will not be built for less than $700 million.

[From the Washington Post, Mar. 5, 1973]

ARAB OIL MONEY HURT DOLLAR

(By Ronald Koven and David B. Ottaway)

Arab oil money played a large part in the monetary crisis which forced a second devaluation of the dollar last month, according to both Arab and U.S. officials.

Some well-placed Arab sources claim that as much as half of the $6 billion in speculative money that flowed to Frankfurt in mid-February consisted of Arab-owned Eurodollars. U.S. sources view that as somewhat exaggerated, but they readily concede that Arab money accounted for at least $1 billion.

The last official estimate of the Bank for International Settlements is that the Middle Eastern countries hold $7.5 billion of the $80 billion in the Eurodollar market, made up of dollars circulating in Europe and not repatriated to the United States.

There has been growing concern in the U.S. government that the Arab oil-producing states, whose steadily mounting official bank holdings are now calculated at about $12 billion, might be tempted to use their monetary clout for political ends. Their reserves are expected to double in the next three years.

Private holdings of the Arab ruling families are thought to be roughly equal to the official government reserves in many of the oil states.

Despite urgings by radical Arabs that the oil money be used deliberately to pressure the United States into changing its Middle East policy, it is generally believed that, with the possible exception of Libya, the Arab money was moved in February in response to the normal instinct of monetary self-preservation.

It is widely conceded that the major U.S. oil companies also played a large part in the Frankfurt speculation and that the Arab governments simply followed their lead in this instance.

There is some dispute whether Saudi Arabia, the superpower of the oil exporters and perhaps Washington's closest Arab ally, took part in the attack against the dollar.

Saudi sources insist that they simply took a heavy loss on the devaluation, keeping their $3 billion in reserves where it was bound to suffer in any devaluation. But other knowledgeable Arab sources contend that the Saudis also tried to protect their dollar holdings, along with most of the other Arab governments.

U.S. sources tend to believe that Libya, the most politically motivated of the large Arab fund holders, was one of the most active speculators. The Libyans are known to have attacked the British pound in the past for purely political reasons.

Pinning down the source of such "hot money" flows, however, is very difficult.

If an order to switch from dollars to West German marks comes from an Arab account in Beirut through a corresponding Swiss bank, there is no way for money changers in Frankfurt to know exactly who placed the order. There is hard evidence, however, that Arab officials in Beirut are trying to keep track of who does what, and the Arab League is known to have conducted a detailed study of the subject.

It is far too early even to make an educated guess of who is behind the latest attack on the dollar in which the West German central bank was forced on Thursday to buy up almost $3 billion, the record for a single day.

The problem of determining who the speculators are will be a key consideration in a forthcoming Senate Foreign Relations Committee investigation to be conducted by the subcommittee on multinational corporations headed by Sen. Frank Church (D-Idaho).

Sources close to the preparations for that inquiry are expressing shock that the U.S. government has so little hard information on who has been speculating against the dollar.

But banking sources say that, of the major U.S. and foreign corporations operating across national boundaries, the oil companies are the most prone to play the money markets. This is because they must pay huge sums to the Arab oil states, and the companies try to settle their debts in the most advantageous way.

Thus, if there is $100 million to be paid to Kuwait in three months, for example, an oil company might be tempted to buy marks now in anticipation of a dollar devaluation or an upward revaluation of the mark.

If the bet is correct, the company could make a tidy profit, buying back the $100 million it needs to pay Kuwait and pocketing $10 million in marks in addition in a 10 per cent devaluation.

This practice, known as "leads and lags," is a contagious example for the Arab treasuries, whose officials have often been tutored by the Western oil companies.

An Arab League study by Prof. Youssef Sayegh, head of the economics department at the American University of Beirut and a prominent Palestinian, concluded, however, that there are some limitations to the use of oil money as a political weapon.

He cited the case of a huge, politically motivated transfer (more than $1 billion according to one estimate) of Libyan funds from Britain to France in late 1971.

Sayegh said that most of the Libyan money found its way back to British banks within a week because there was essentially nowhere else for it to be absorbed. "The Arabs are prisoners of their own funds," he concluded.

The militant Libyan government, with official reserves now estimated at more than $3 billion, is considered so far to be the only Arab state with both the resources and the inclination to use its money holdings for political purposes.

Equally militant Iraq, a country now in heavy financial difficulties, is potentially more troublesome for the monetary system than Libya, however.

While Libya's oil reserves are limited and its production has been cut back, Iraq is now considered to have the second largest reserves in the Middle East after Saudi Arabia. It plans to expand its production after just settling a nationalization dispute with Western companies. Until recently, non-Arab Iran was traditionally ranked as the Middle East's second largest oil source. But recent official estimates are that Iraq's oil potential far outstrips Iran's.

For the moment, however, Western worries about Arab oil money's place in the international monetary system are largely confined to the manipulations of the coffers of such traditionalist kingdoms and sheikdoms as Saudi Arabia, Kuwait, Abu Dhabi, Bahrein and Qatar.

Their current monetary tactics are still thought to be purely motivated by profit-taking and self-protection. That, as recent events in Frankfurt have proven, is threat enough to force the burning of the proverbial midnight oil in the chanceries of the West.

It is clear, however, that those traditionalist Arab states are becoming conscious of the leverage they can have on the monetary system at crucial moments.

When the United States had its first devaluation, in December 1971, the Arab states were just beginning to build up their reserves. Since then, official Saudi dollar holdings have nearly tripled. With more to lose than before, the Saudis and others are demanding to know whether their friendship with the United States will continue to cost them money every time there is a devaluation, not to speak of the cost to their position in the Arab world if Washington continues to back Israel against the Arab cause.

By Mr. McGOVERN:

S. 1285. A bill to prohibit the inspection of farmers' income tax returns by the Department of Agriculture for the purpose of gathering data for statistical purposes. Referred to the Committee on Finance.

PROTECTING CONFIDENTIALITY OF FARMERS' INCOME TAX RETURNS

Mr. McGOVERN. Mr. President, I introduce for appropriate reference a bill to prohibit the inspection of farmers' income tax returns by the Department of Agriculture for statistical purposes, as contemplated by Executive Order 11697. I am joined by Senators MONDALE, MCGEE, and EAGLETON in offering this legislation.

At the time that it became public knowledge, there was concern expressed by individual farmers and farm organizations that the Executive order would breach the confidentiality of individual citizens' income tax returns. I share in that concern.

Although the objectives of the Executive order may have been correct, I think it is a dangerous precedent to open up the income tax returns of individuals to obtain statistical information. In hearings conducted by the House of Representatives this week, it is my understanding that the Department of Agriculture has conceded that the authority granted in this Executive order is much broader than they had originally sought.

The information which the Department of Agriculture sought to obtain from inspecting income tax returns can easily be obtained through the Census of Agriculture each 5 years, or more frequently if the Department feels the need for more frequent information, by instituting an annual abbreviated census.

The order sets a dangerous precedent. As the editor of the Sioux Falls Argus-Leader in my State points out:

> It will be a simple step to extend authority to check tax returns to other Federal agencies and to other groups of citizens.

The time to check the trend toward breaching the confidentiality of privileged information about individual citizens is now. I ask unanimous consent that the text of the bill, and an editorial from the February 10, 1973, edition of the Sioux Falls Argus-Leader, be inserted in the RECORD following my remarks.

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

S. 1285

Be it enacted by the Senate and House of Representatives of the United States of America in Congress asesmbled, That section 6103 of the Internal Revenue Code of 1954 (relating to publicity of returns and disclosure of information as to persons filing income tax returns) is amended by adding at the end thereof the following new subsection:

"(g) Certain Inspections by Department of Agriculture Prohibited.—Notwithstanding the provisions of subsection (a), income tax returns of persons having farm operations shall not be open to examination and inspection by the Department of Agriculture for the purpose of obtaining data, as may be needed for statistical purposes, about such persons' farm operations."

[From the Sioux Falls (S. Dak.) Argus Leader, Feb. 10, 1973]

EYING TAX RETURNS OF U.S. FARMERS

The U.S. Department of Agriculture (USDA) will now have access to farmers' income tax returns from 1967 to the present—thanks to an executive order signed by President Richard Nixon Jan. 17th.

His order drew little attention at the time. The Des Moines Register's George Anthen, based in Washington, spotted the order and developed a copyrighted news story for his paper.

The order stated that the USDA could inspect the returns "for the purpose of obtaining data about such persons' farm operations. The order specifies that any information obtained by the USDA from farmers' tax returns must be used "for statistical purposes only."

The Department of Agriculture contended that it needed the information from tax returns because its local USDA officials do not have complete lists of farmers. Federal subsidies do not go to all those who conduct farming operations. The department also says it is not interested in obtaining personal financial information, but seeks the names of farmers, the type of farms they operate and some data on gross receipts from farming operations. The department uses the excuse that tax data would provide the needed information at less cost than a national survey to get the names of all farmers.

The department said the information is needed so that it can bring up to date its estimates on crop and livestock production.

In our opinion, this move does nothing for the nation's farmers and could serve to breach the confidentiality of income tax returns. The Department of Agriculture should be able to get the information it needs from the farm census, crop and livestock reports and other statistical data.

It will be a simple step to extend authority to check tax returns to other federal agencies and to other groups of citizens.

This is a battle that congressman should take up for the benefit of the people they represent.

By Mr. HARTKE:

S. 1286. A bill to provide for national growth policy planning, and for other purposes. Referred to the Committee on Government Operations.

NATIONAL GROWTH POLICY

Mr. HARTKE. Mr. President, in recent months, I have been deeply troubled about our Federal Government's inability to effectively implement our programs. I have reflected most deeply on the plight of the poor. There are, we have discovered in the last decade, poor people in this country. They do not eat as well as the rest of us. They do not have good housing or good schools, or good jobs. They have, as the professors say, inadequate income. Yet, even if all the Government programs worked, even if we could remedy all their material shortcomings, could that solve our problems? I doubt it. For to be poor in America today is to be shorn of dignity, individual worth and meaning in a society where these are the only real goods worth having.

Now the administration tells us that it will forget the American poor. They even claim they have a constitutional right to do so.

But that must not be our answer. We must concern ourselves with these people, but not in our old tradition of liberalism. For it has been the very paladin of our liberal faith who has brought us to our downfall. Lyndon Johnson, in the first days of his rule, enacted virtually every dream of the New Deal; hundreds of bills, thousands of programs, dollars by the billions. But something went wrong. The education bill did not educate the children. There were programs for new cities—but they destroyed more than they built. There was medicare—but it shot the cost of medical care skyward, while doing little or nothing to improve the quality of care or the health of the people.

There were programs for the farm which nearly eliminated the farmer. We promised blacks that patience would bring justice. We promised whites that justice would bring order. We achieved neither. Greatest and most tragic of all was our failure to bring real and substantive improvement to the lot and life of the black ghettos of the great cities. Our efforts were sincere and well-intentioned, but they were encrusted with bureaucracy; bemused by the absurd notion that dignity and pride could be conferred by fiat or created by meager handouts; and ultimately poisoned by the vain hope that the terrible legacy of centuries of oppression could be wiped away without cost or danger to ourselves. The result has been waste—the worst kind; not the waste of money, but the waste of hope, the waste of compassion, the waste of dreams—the waste of the best possibilities of our generation.

Now there is no liberal program left to enact, and the consequences are all around us. We must now engage ourselves in depthly analysis of our political problems, we must return to the root of the Nation's soul. We must affirm in a time of national and personal disintegration the ties that bind; in a time when poverty of spirit reaches far beyond the ghetto, to affirm the dignity and pride of those who are lost even to themselves; in a time when liberalism is failing to find new ways to make Government work, and new purposes for men to believe in.

This is our program—a national growth program which has as its fundamental objective the shaping and reshaping of national growth forces in order to maximize their utility for those who have largely been affected by them in a negative rather than a positive manner. Thus, from a national perspective, much more is called for than simply an efficient coordination of existing programs and policies. What is called for are new policies and instruments both to transform and reorder the impact of such forces on the lives of the minorities and the poor.

National growth forces, are, indeed, complex and the interrelationship between them even more so. How we identify and conceptualize them, in itself, depends in part upon the factors of policy on which we focus. Our program must address the following seven factors of national policy: disparities of race and income in metropolitan regions; population growth; environmental quality; employment location and economic growth; housing; land use; and governmental reorganization to increase governmental efficiency.

There is an interrelation between each of these seven factors. In the metropolitan region, we may identify two broad population configurations along racial lines: blacks are largely confined to the central city, whites to suburbia. We could trace these patterns partly to governmental policies; for example, the historic impact of FHA programs on the development of suburbia, the confinement of public housing projects to the central city, and the resulting consequence of the racial character of policy outcomes. In addition, there are certain considerations that thread some of those factors together, such as issues relating to public and private financing mechanisms for long-term urban and rural growth needs, or the role of the States in dealing with urban growth and rural development. In the expansion of present population and income configurations, the fiscal difficulties of the central city are exacerbated. These trends further legitimize the geographic isolation of the central city, undercut its shrinking political base, and erode basic political and social values; for example, belief in the openness of the social system. Likewise, neglect of rural areas which are left in the technological and economic backwash caused by changing methods of agricultural production, depletion of mineral resources and resulting unemployment, seriously aggravate urban pressures by sustained migration to already dense central cities or, worse, leaving behind in stagnant rural areas, the very old and the very young whose basic human needs cannot be served due to inadequate tax bases and the paucity of needed health, education, and housing programs.

Accompanying population distribution patterns as both cause and effect is the suburbanization of industry and business. This phenomenon is a trend with a considerable time line. The obvious shift has been the movement of manufacturing employment opportunities to the suburbs, which coincides with a shift in central city employment opportunities from a blue to a white collar base.

This pattern has been reinforced by other developments, including land use policies, which have reinforced racial disparities and prevented free population movement.

The Government role properly is to guide rather than worsen these economic and demographic trends. Accordingly there is a need for a Federal governmental monitoring of the various governmental efforts to deal with these trends.

This role should proceed from a coherent approach to national and urban growth policy.

Our response must be to escalate the level of planning and provide adequate governmental powers via metropolitan

organization, disperse the ghettoes and open up the suburbs through integration, contain urban sprawl through land banking and regional land use controls, increase and equalize the metropolitan revenue base through a national development bank, compel the participation of the Nation's corporate giants in this endeavor, and provide the mechanisms for translating our response into accomplishments.

Last May 11, I introduced the National Growth Policy Planning Act of 1973 to engender debate in the Congress as to how we might best fulfill our responsibility to guide the Nation's growth and development in a manner to insure that no one is indeed, left behind. In the last year I have sought to interest others in the necessity of a new focus for our domestic policy.

Senator HUBERT HUMPHREY has stated the case for a national growth policy in a speech on May 26 of last year in San Francisco where he unveiled the general provisions of a Balanced National Growth and Development Act. In that speech he called the proposed legislation "the most important of my 25 years of public service." At the request of the Subcommittee on Housing and Urban Affairs of the Senate Committee on Banking, Housing and Urban Affairs, the Congressional Research Service has recently begun a most important series of seminars on national growth issues. Several congressional committees have investigated the possibility of holding hearings in the area of domestic growth policy.

However relentless and noble our aspirations, they confront several strong barriers to the development of a national growth policy that must be surmounted. First, the recalcitrance of the administration, expressed in its 1972 Growth Policy Report required by title VII of the Housing and Urban Development Act of 1970, to develop a comprehensive and detailed national growth policy. From that report we can easily discern that this administration has no housing policy; has no policy for our beleaguered cities; has no policy to promote the rational development of rural and urban America. Second, the spirited but premature effort to quickly pass a national land use policy bill. As is well known, Senator EDMUND MUSKIE has raised significant issues about the utility of a national land use policy outside the direct guidance of the Executive Office of the President and without specific standards for growth. The Senate Interior Committee has held hearings on these issues and it is my belief that the present national land use policy legislation will fit within the superstructure necessary for guiding national growth. Third, with the administration intent on obliterating the Economic Development Administration of the Commerce Department, ending Federal participation in the regional planning commissions, freezing Department of Housing and Urban Development funds, and eliminating scores of domestic programs through impoundment, there is little hope for the underprivileged of our Nation's urban and rural areas unless the Congress responds. Lastly, with the present jurisdictions of congressional committees we have no way to adequately deal with the interrelationships between various domestic policies inherent in such a proposal. Nor does the Congress have the budgetary mechanism to evaluate alternative spending needs and priorities. Along with the current proposals for a congressional Office of Management and Budget, we need to consider a select committee on national growth policy to investigate how Congress can formulate the domestic growth policy that will deal adequately with the factors I have mentioned here today.

We need comprehensive legislative proposals for such a committee to consider and I offer one. I am introducing today the National Growth Policy Planning Act of 1973 as a means of continuing and elevating the debate in this crucial area. Crucial indeed, for now our Nation faces problems not only of waste, poverty, the possibility of increased racial warfare, but now even the threat of irreparable damage to the ecological system that is essential to our survival. In recent months the onrushing possibility of national ecocide has been given the possibility of reality. Crucial indeed, for three separate reports—the Club of Rome Study, the Report of the Commission on Population Growth, and the American and the British report called "Blueprint for Survival" have forecast severe ecological strain on the world system in the next 100 years.

My bill would provide grants to State and metropolitan agencies to plan for growth in their areas. The bill would establish a National Growth Policy Council in the Executive Office of the President, abolish the inept Domestic Council and join several executive agencies into one concise agency, to plan and coordinate a national growth policy. The bill would also provide for the consolidation of some Federal comprehensive planning and planning assistance programs and provide for possible study of other programs. It would transfer Office of Management and Budget Circular A–95 functions to the Council. The bill also provides for regional multistate commissions as a link between planning and development initiatives. It would offer incentives for the development of regional planning and development agencies. The bill endorses the principle of community development block grants for more flexible urban funding. It establishes a national development bank to underwrite the financial needs of the underdeveloped and overdeveloped areas of our country. The bank would also engage in land banking. The bill links national development goals and procedures. It reintroduces a tax proposal of Senator HART'S as an example of the types of tax incentives and disincentives that might be used to limit and control national growth. That proposal would seek to halt corporate relocation and job loss in metropolitan areas.

In sum, my bill offers a package of proposals that, I believe, if fulfilled and built upon can help to rejuvenate the spirit and the physique of America, through the development of a national growth policy. Mr. President, I ask unanimous consent that with my remarks the text of the bill and a section-by-section outline thereof be inserted in the RECORD at this point.

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

S. 1286

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

SHORT TITLE

SECTION 1. This Act may be cited as the "National Growth Policy Planning Act".

FINDINGS

SEC. 2. (a) The Congress finds that there is an immediate national interest in an efficient and comprehensive system of national, regional, Statewide, metropolitan area, and local growth policy planning and decision making and that the rapid growth of the nation's population, a deteriorating environment, increasing urban sprawl, a disproportionate dependence on inefficient transportation systems, large scale industrial and economic growth, conflicts in patterns of land use, the fragmentation of Government entities, and the increased size, scale, and impact of private and public actions have created a situation in which growth policy management decisions of national, regional, Statewide, metropolitan area, and local concern are often being made on the basis of expediency, tradition, short-term economic considerations, and other factors which often detract from the real concerns of sound national growth policy and are detrimental to the future well-being of the nation.

(b) The Congress further finds that the failure to conduct competent, ecologically sound growth policy planning has required public and private enterprise to delay, litigate, and cancel proposed public utility, industrial, and commercial development because of unresolved growth policy planning questions, thereby causing an inefficient use of human and physical resources and a threat to the public welfare and often resulting in decisions to locate utilities, industrial, and commercial activities in areas which offer the least public and political resistance, without regard to relevant ecological, social, economic, demographic, and environmental growth policy considerations.

(c) The Congress further finds that many Federal agencies are deeply involved in national, regional, State, metropolitan area, and local growth policy planning and management activities which because of the lack of consistent policy often results in needless undesirable and costly conflicts between agencies of Federal, State, and local government, that existing Federal growth policy planning programs have a significant effect upon the location of population, economic growth, the character of industrial, urban and rural development, and the quality of life, that the purposes of such programs are frequently in conflict, thereby subsidizing undesirable and costly patterns of growth, and that an immediate and extraordinary effort is necessary to interrelate and coordinate existing and future Federal, regional, metropolitan area, local, and private decision making within a system of planned growth and reestablish priorities that are in accordance with national policy of limited and orderly growth.

(d) The Congress further finds that while the primary responsibility and constitutional authority for growth planning and management of non-Federal lands rests with State and local governments, it is increasingly evident that the manner in which this responsibility is exercised has a significant influence upon the utility, value, and potential of the public domain, the national park system,

forests, seashores, lakeshores, recreation, wilderness, and other Federal areas, and that the failure to plan and poor planning at all levels of Government pose serious problems of broad public concern and often result in irreparable damage to commonly owned assets of essential national importance such as estuaries, ocean beaches, and other areas of public control.

(e) The Congress further finds that the growth policy decisions of the Federal Government have a significant impact upon the ecology, the environment, and patterns of growth of local communities, that the substance and the nature of a national growth policy should take into consideration the needs and interests of State, regional, metropolitan area, and local governments, as well as those of the Federal Government, private groups, and individuals and that Federal growth policy decisions demand greater effective participation by State, metropolitan area, and local governments so that they meet the highest standards of growth policy management and the desires and aspirations of the people.

(f) The Congress further finds that there is a national interest in encouraging the several States to exercise their full authority over the planning and regulation of non-Federal lands by assisting the States, in cooperation with local governments, in developing growth policy plans including unified metropolitan area authorities, policies, criteria, standards, methods, and procedures for dealing with growth policy decisions of more than local significance.

(g) The Congress further finds that it is essential to improve the quality of effective government by encouraging each State and metropolitan area to establish an agency within the structural framework of the government of that State or metropolitan area to administer and coordinate the planning process in relation to its growth.

(h) The Congress further finds that growth policy decisions significantly influence the quality of life in the United States, and that present State and local institutional arrangements for planning and regulation of growth policy of more than local impact are inadequate with the result that the implementation of standards for the control of air, water, noise, and other pollution is impeded.

DECLARATION OF POLICY

SEC. 3. (a) In order to promote the general welfare and to provide full and wise application of the resources of the Federal Government in preserving the environmental, economic, and social well being of the people of the United States, the Congress declares that it is a continuing responsibility of the Federal Government, consistent with the responsibility of State and local government, to undertake the development and implementation of a policy for growth policy planning and management to be known as the National Growth Policy which shall incorporate ecological, environmental, esthetic, economic, social, demographic, and other appropriate factors. Such policy shall serve as a guide in making specific decisions which affect the pattern of environmental, population, and industrial growth, and the development of Federal lands, and shall provide a framework for the development of regional, State, metropolitan area, and local growth policies.

(b) The Congress further declares that the National Growth Policy should at least—

(1) favor patterns of growth planning, management, and development which are in accord with sound ecological principles and which encourage intelligent and balanced use of the nation's resources;

(2) redirect beneficial economic activity and development to all underdeveloped regions of the nation;

(3) disperse economic, racial, demographic, and social patterns or concentrations that are detrimental to the public welfare;

(4) contribute to the revitalization of existing communities and encourage, where appropriate, new communities;

(5) assist State and metropolitan area governmental entities to assume growth policy planning responsibility for activities within their boundaries;

(6) facilitate increased participation and require greater responsibility from the business sector in controlling and managing the nation's growth for the public weal;

(7) facilitate increased coordination in the administration of Federal programs so as to encourage desirable patterns of growth and policy planning;

(8) systemize methods for the exchange of information relevant to the growth policy in order to assist all levels of government in the development and implementation of the National Growth Policy; and

(9) favor patterns of growth planning, management, and development which foster the maximum attainment of human potential and which are in accord with sound ecological principles and which encourage an intelligent and balanced use of the Nation's resources.

(c) The Congress further declares that intelligent growth policy planning and management provides the single most important institutional device for preserving and enhancing the environment, for ecologically sound development, for stabilization of the Nation's population, and for maintaining the conditions capable of supporting a quality of life and providing the material means necessary to maintain a high national standard of living.

PURPOSE

SEC. 4. It is the purpose of this Act to—

(1) provide for the development of a National Growth Policy to encourage and assist the several States and metropolitan areas to exercise more effectively their responsibility for the planning, management, and administration of the Nation's resources through the development and implementation of comprehensive growth policy plans and management programs designed to achieve an ecologically and environmentally sound use of the Nation's resources;

(2) establish a grant-in-aid program to assist State and metropolitan area agencies in hiring and training the personnel and in establishing the procedures necessary to develop, implement, and administer a statewide or metropolitan area growth policy plan which meets Federal guidelines consistent with the National Growth Policy and which will be responsive in dealing with the growing pressure of conflicting demands on a finite resource base;

(3) establish reasonable and flexible Federal guidelines to give State and metropolitan area agencies guidance in the development of growth policy plans;

(4) establish the National Growth Policy Planning Council to administer the Federal grant-in-aid program, to review growth policy plans for conformity with the provisions of this Act, and to assist in the coordination of Federal agency activities with growth policy planning agencies;

(5) develop and maintain a national policy with respect to federally conducted and federally assisted projects having growth policy implications;

(6) coordinate planning and management relating to Federal lands and resources with planning and management relating to non-Federal lands and resources;

(7) require a report by the President to the Congress on the consolidation of Federal comprehensive planning activities and planning assistance programs;

(8) establish multistate regional growth planning and development commissions to assure that State and metropolitan area growth plans are consistent with regional goals and National Growth Policy guidelines formulated by the Council;

(9) encourage the development of State and metropolitan area development agencies to provide increased housing opportunities, employment opportunities, and sound growth of neighborhoods through the revitalization of slum and blighted areas;

(10) establish a National Development Bank to broaden and decrease the costs of capital funds for State and local governments to help them meet needs for essential public works and community facilities including the acquisition of land;

(11) further the development of the National Growth Policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a single, consistent system of Federal aid;

(12) amend the Internal Revenue Code of 1954 to deter corporate and job relocation inconsistent with balanced national growth;

(13) establish requirements with respect to the location and impact of Federal facilities, activities, and procurement policies on patterns of growth and development.

EFFECT ON EXISTING LAWS

SEC. 5. Nothing in this Act shall be construed—

(1) to expand or diminish Federal or State jurisdiction, responsibility, or rights in the field of growth policy planning, development, or control, or to displace, supersede, limit, or modify any interstate compact or the jurisdiction or responsibility of any legally established joint or common agency of two or more States, or of two or more States and the Federal Government, except as required to carry out the provisions of this Act;

(2) to alter or affect the authority or responsibility of any Federal official in the discharge of duties of his office, except as required to carry out the provisions of this Act; or

(3) to supersede, modify, or repeal existing law applicable to Federal agencies authorized to develop or participate in the development of resources or to exercise licensing or regulatory functions in relation thereto, except as required to carry out the provisions of this Act.

DEFINITIONS

SEC. 6. For the purpose of this Act—

(1) the term "State" means a State, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States;

(2) the term "growth policy" means at least a policy which favors patterns of growth and economic development and stabilization which offer a range of alternative locations and encourage the wise and balanced use of physical and human resources in the nation, fosters the continued economic strength of all parts of the nation, helps reserve trends of migrations and physical growth which reinforce disparities among States, regions, and cities, treaties comprehensively the problems of poverty and employment (including the erosion of tax bases and the need for better community services and job opportunities) which are associated with disorderly urbanization and rural decline, refines the role of the Federal Government in developing new towns and revitalizing existing communities, and strengthens the capacity of general governmental institutions to contribute to balanced and efficient growth, and facilitates increased coordination of Federal, regional, State, and local activities so as to encourage orderly growth, the prudent use of natural resources, and the protection of the physical environment;

(3) the term "resources" means (A) physical resources, such as water, air, land, agriculture fish and wildlife, aesthetics, timber,

national parks, seashores, estuaries, energy, housing, industrial production, and transportation, and (B) human and socio-cultural resources, such as population, employment, and immigration; and

(4) the term "metropolitan area" means a standard metropolitan statistical area (SMSA), as established by the Office of Management and Budget, which has a population of 750,000 or more.

AUTHORIZATION OF APPROPRIATIONS

SEC. 7. (a) There is authorized to be appropriated not more than $30,000,000 for each fiscal year for the administration of title I (other than for assistance under section 111) and title III of this Act, of which not more than $20,000,000 may be used for contract studies.

(b) There are authorized to be appropriated not more than $300,000,000 for each fiscal year for grants to planning agencies pursuant to title II of this Act.

TITLE I—NATIONAL GROWTH POLICY PLANNING COUNCIL ESTABLISHMENT

SEC. 101. (a) There is established in the Executive Office of the President a National Growth Policy Planning Council (hereinafter referred to as the "Council"). The Council shall consist of seven members appointed by the President, by and with the advice and consent of the Senate, from among individuals with special qualifications to carry out the functions of the Council. Four members of the Council shall constitute a quorum. The Council shall annually elect a Chairman from among its members.

(b) Each member of the Council shall serve for a term of six years, except that—

(1) the members first taking office shall serve as designated by the President, two for terms of two years, two for terms of four years, and three for terms of six years; and

(2) any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(c) Each member of the Council shall be compensated at the rate provided for level III of the Executive Schedule, under section 5314 of title 5, United States Code.

(d) All functions of the Council shall be carried out under the supervision and direction of the President.

AUTHORITY

SEC. 102. The Council shall have the authority to establish principles, standards, and procedures for planning agencies receiving grants pursuant to this Act.

FUNCTIONS OF THE COUNCIL

SEC. 103. (a) The Council shall provide for—

(1) the policy direction and coordination of all Federal and Federally-assisted programs for growth policy planning and development, programs designed to improve human resources, programs designed to allocate resources, and programs designed to develop energy resources, within the departments and agencies of the Government designated by the President, the effectuation of such policy direction and coordination, and a system of standard definitions and common sources of data for such activities;

(2) the preparation of an annual report, to be known as the Annual Report on National Growth and Development, detailing the progress made in carrying out the provisions of this Act, and containing the President's evaluation and recommendations regarding future needs in this regard;

(3) such additional studies and analyses and such reports as the President and the Congress may require;

(4) the assessment of national needs, goals, and priorities;

(5) the evaluation of effects of present and proposed Federal tax incentives and State and local government tax policies upon the private industrial mix and location in the context of national growth;

(6) the evaluation of all present and proposed Federal credit programs;

(7) the evaluation of the effects of fiscal and monetary policy and such other economic stabilization tools as may be adopted upon employment, changes in income, and the composition of economic production in the nation and its regions;

(8) the evaluation, or the review of evaluations made within Government departments and agencies, of the effectiveness of present and proposed programs, with respect to all benefits, costs, and incidence thereof;

(9) the assignment of goals, plans, and programs to departments and agencies generally;

(10) in coordination with the Office of Management and Budget, the development of three, five, and ten year planned program projections;

(11) the evaluation or regional resources and human resources in relation to projected development;

(12) the analysis of trade-offs in adoption of alternative national growth policies;

(13) the establishment of multi-State regional offices of the Council in order to obtain regional and State implementation and input regarding national goals and policies affecting the allocation of resources, the development of human resources, and environmental protection;

(14) the establishment, for purpose of coordinated planning and development, of representative multi-State regional bodies, and encouragement of the formation of representative multi-jurisdictions within States;

(15) the establishment within the goals of balanced economic growth, of cooperative mechanism, including appropriate taxation policies, grants, and other incentives, to achieve maximum participation of private industry in achieving the purpose of this Act;

(16) the establishment of national growth policies, approved by the President, which would require the Council to review agency and departmental budgets before they are submitted to the President or the Office of Management and Budget; and

(17) the establishment of a nationally coordinated comprehensive planning process, including but not limited to—

(A) supervising and coordinating the activities of the Regional Planning and Development Commissions, State and metropolitan planning agencies, and State and metropolitan development agencies provided for in this Act;

(B) facilitating the use of common information and data bases for regional, State, and local comprehensive and functional planning, and for this purpose the Council shall collect, analyze, and disseminate through the Regional Planning and Development Commissions information, data and projections concerning economic trends and location patterns, population characteristics, migration, direction and extent of urban and rural growth and change, employment and unemployment, social, educational, housing, health, recreational, cultural and welfare needs, government organization patterns and financial resources available within the States and political subdivisions thereof, and by any other subjects deemed essential to the planning process;

(C) providing channels for and facilitating the continuing exchange and consideration of planning information among all Federal, regional, State, metropolitan area, and local planning agencies relevant to the planning process for the purpose of periodic joint determination of mutually consistent, realistic and attainable regional, State, and local growth policies;

(D) monitoring the growth and development of the regions, States, and localities, comparing planned with actual development, and making adjustments in growth policies or in developmental activities, as may be indicated by such reviews, in order that the growth policies continue to serve as current and suitable guides for Federal, State, and local program decisions;

(E) reviewing proposals for Federally-assisted programs and projects for consistency with the stated growth policies, in accordance with the provisions of section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, section 401(a) of the Intergovernmental Cooperation Act of 1968, and this Act;

(F) reviewing the planning requirements of all existing and proposed Federal programs, and taking such steps as are necessary to ensure that these planning requirements are compatible with the unified comprehensive planning system; and

(G) periodically summarizing, for the use of both the President and the Congress, the current and foreseeable needs for various types of Federal assistance as indicated by the comprehensive planning system, taking into consideration, among other things, the relative priorities assigned to such assistance among the several regions, States, and districts in their respective plans.

(b) The Council shall, as soon as practicable, prescribe such rules and regulations as may be necessary to implement its functions under this section and the other provisions of this Act, including rules and regulations which provided for—

(1) coordination of the program authorized by this Act with related Federal planning assistance programs;

(2) appropriate utilization of other Federal departments and agencies administering programs which may contribute to achieving the purposes of this Act; and

(3) such other rules and regulations as it may deem necessary or appropriate for carrying out its duties and responsibilities under the provisions of this Act.

ADMINISTRATIVE PROVISIONS

SEC. 104. (a) For the purpose of carrying out the provisions of this Act, the Council may—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable;

(2) acquire, furnish, and equip such office space as is necessary;

(3) use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States;

(4) employ and fix compensation of such personnel as it deems advisable;

(5) procure services as authorized by section 3109 of title 5, United States Code, at rates not to exceed $100 per diem for individuals;

(6) purchase, hire, operate and maintain passenger motor vehicles; and

(7) incur such necessary expenses and exercise such other powers as are consistent with and reasonably required for the performance of its functions under this Act.

(b) Any member of the Council is authorized to administer oaths when it is determined by a majority of the Council that testimony shall be taken or evidence received under oath.

(c) The Council is authorized to delegate the chairman of the Council its administrative functions, including the detailed administration of the grant programs.

(d) The Council may, with the consent of the head of any other department or agency of the United States, utilize such officers and employees of such agency on a reimbursable basis as are necessary to carry out the provisions of this Act.

(e) Upon the request of the Council, the head of any Federal department or agency is authorized—

(1) to furnish to the Council such information as may be necessary for carrying out its functions and as may be available to or procurable by such department or agency; and

(2) to detail to temporary duty with the Council on a reimbursable basis such personnel within his administrative jurisdiction as the Council may need or believe to be useful for carrying out its functions.

REPORTS AND EVALUATIONS

SEC. 105. Any interstate, State, local, or metropolitan agency receiving a grant under this Act, either directly or through another such agency, shall make such reports and evaluations in such form, at such times, and containing such information as the Council may require for the purposes of this Act, and shall keep and make available such records as may be required by the Council for the verification of such reports and evaluations.

STUDIES

SEC. 106. The Council may, by contract or otherwise, make studies and publish information on subjects related to State, regional and national growth policy planning and resource use for the purposes of this Act.

ANNUAL REPORT ON NATIONAL GROWTH AND DEVELOPMENT

SEC. 107. (a) Not later than March 31 of each year, the Council shall transmit to the President and to the Congress an Annual Report on National Growth and Development. The Annual Report on National Growth and Development shall include—

(1) information and statistics describing characteristics of national growth and development identifying significant national and regional trends;

(2) a summary of significant problems facing the nation as a result of population level and distribution trends and other developments affecting the quality of life of the nation's citizenry;

(3) an evaluation of the progress and effectiveness of Federal efforts designed to meet such problems and to implement the policy and objectives of this Act;

(4) a review and evaluation of multi-State, State, metropolitan area, and local government (including multicounty) planning and development efforts to determine the extent to which such activities are not consistent with the policy and goals described in this Act;

(5) appropriate projections and forecasts regarding future social, scientific, and political developments affecting the growth and development of the Nation, stated in one, five, and twenty-five year time-frames;

(6) recommendations for policies and programs to further carry out the policy and objectives of this Act, including such legislation as may be deemed necessary and desirable; and

(7) general plans regarding the implementation of the policy and objectives of this Act, including estimates of time required to achieve them.

Such Annual Report shall incorporate the reports required under title VII of the Housing and Urban Development Act of 1970, title I of the Airport and Airway Development Act of 1970, and title IX of the Agricultural Act of 1970.

(b) Such Annual Report, and any reports supplementary thereto, shall, when transmitted to the Congress, be referred to the Joint Economic Committee, the Committee on Government Operations of each House, and such other standing committees as the presiding officer of either House may designate.

EVALUATIONS BY THE COUNCIL OF ECONOMIC ADVISORS, THE COUNCIL ON ENVIRONMENTAL QUALITY, AND THE NATIONAL GROWTH POLICY PLANNING COUNCIL

SEC. 108. The Council of Economic Advisors, the Council on Environmental Quality, and the National Growth Policy Planning Council shall review all new and modified growth and development policies and programs with respect to their economic, environmental, and general impact, respectively, and report their recommendations to the Council within time limits prescribed by the Council.

ABOLITION OF THE DOMESTIC COUNCIL

SEC. 109. (a) The Domestic Council established in the Executive Office of the President by Reorganization Plan Numbered 2 of 1970 is abolished and all functions of the Domestic Council are transferred to the National Growth Policy Planning Council.

(b) This section shall be effective upon the expiration of 90 days following the date of enactment of this Act.

TRANSFER OF FUNCTIONS FROM OFFICE OF MANAGEMENT AND BUDGET WITH RESPECT TO REVIEW OF FEDERAL PROJECTS AND LIAISON WITH STATE AND LOCAL GOVERNMENTS

SEC. 110. (a) All functions of the Office of Management and Budget under the provisions of title IV of the Intergovernmental Cooperation Act of 1968, section 204 of the Demonstration Cities and Metropolitan Development Act of 1966, and section 102 (2) (C) of the National Environmental Policy Act of 1969 are transferred to the Council.

(b) This section shall be effective upon the expiration of 90 days following the date of enactment of this Act.

TRANSFER OF COMPREHENSIVE PLANNING ASSISTANCE PROGRAM TO THE COUNCIL

SEC. 111. (a) The President shall transfer the administration of the planning assistance program provided for in section 701 of the Housing Act of 1954, as amended, from the Secretary of Housing and Urban Development to the Council, except for such funds and personnel as are necessary to continue grants for functional planning where such planning is a requirement for other programs of Federal assistance administered by the Secretary.

(b) In order to ensure that such planning assistance program is administered with maximum effectiveness and is adequately funded, the President shall review the program and submit a report to Congress not later than twelve months after the date of enactment of this Act, setting forth his views and recommendations concerning the future of the program. The report shall include, but not be limited to, (1) the possibility of administering such program through the Regional Planning and Development Commissions established under this Act, and (2) current and foreseeable funding needs.

(c) There is hereby authorized to be appropriated the sum of $200,000,000 for the fiscal year ending June 30, 1973, and the sum of $200,000,000 for each fiscal year thereafter, which funds shall be used specifically for the purposes set forth in subsection (j) of section 701 of the Housing Act of 1954, as amended. All funds so appropriated shall remain available until expended.

(d) It is the intent of Congress that, consistent with the nature of a unified, comprehensive planning system, only one agency in a State or district shall be eligible to receive a grant for State-wide or district-wide comprehensive planning as designated by Governors or by State law. All other agencies eligible for comprehensive planning grants under subsection (a)(1) of section 701 of the Housing Act of 1954, as amended, and consistent with this intent shall continue to be eligible for such grants.

ABOLITION OF THE ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SEC. 122. (a) The Advisory Commission on Intergovernmental Relations is abolished and all functions of such Commission are transferred to the Council.

(b) This section shall become effective upon the expiration of 90 days following the date of enactment of this Act.

TITLE II—NATIONAL GROWTH POLICY PLANNING AND ASSISTANCE THROUGH STATE AND METROPOLITAN PLANNING GRANTS

GRANTS-IN-AID

SEC. 201. (a) In order to carry out the purposes of this title, the Council established under section 101 is authorized to make growth policy planning grants to a State agency, designated by the Governor of the State or established by State law, or to a metropolitan area agency, if such agency has Statewide or metropolitan area growth policy planning responsibilities and meets the guidelines and requirements established in section 202.

(b) Such grants shall be for the purpose of assisting eligible State and metropolitan area agencies to—

(1) prepare and inventory the State's or metropolitan area's land and growth-related resources;

(2) compile and analyze information and data related to—

(A) population densities and trends;

(B) economic characteristics and projections;

(C) directions and extent of urban and rural growth and changes;

(D) public works, public capital improvements, land acquisitions, and economic development programs, projects, and associated activities;

(E) ecological, environmental geological, and physical conditions which are of relevance to decisions concerning the location of new communities, commercial development, heavy industry, transportation facilities, utilities, Federal and State facilities, and other growth policy factors;

(F) the projected growth policy requirements within the State or metropolitan area for agriculture, recreation, urban growth, housing, commerce, transportation, open space, the generation and transmission of energy, and other important uses for at least fifty years in advance;

(G) governmental organization and financial resources available for growth policy planning and management within the State, and the political subdivisions thereof, or within the metropolitan area; and

(H) other information necessary to conduct State or metropolitan area growth policy planning in accord with the provisions of this title;

(3) provide technical assistance, including computer technology and training programs for appropriate State and metropolitan area personnel in the development, implementation, and management of growth policy planning programs;

(4) arrange with Federal agencies for the cooperative planning of Federal lands located within and near the State's or metropolitan area's boundaries;

(5) develop, use, and encourage common information and data bases for Federal, regional, State, metropolitan, and local growth policy planning;

(6) establish arrangements for the exchange of growth policy planning information among State and metropolitan area agencies, and among the various governments within each State and their agencies, between the governments and agencies of different States, and among States and interstate agencies and regional commissions;

(7) establish arrangements for the exchange of information with the Federal Government for use by the Council and the State and metropolitan area agencies in discharging their responsibilities under this Act;

(8) conduct public hearings prior to submission of plans to the Council, prepare proposals, and solicit comments on proposals concerning specific portions of the plans and the plans in their entirety;

(9) establish arrangements for public information programs pertaining to the need

for immediate national growth policy planning in all governmental sectors; and

(10) utilize, for the purpose of furnishing advice to the Federal Government as to whether Federal and Federally-assisted projects are consistent with the State or metropolitan area's growth policy program, procedures established pursuant to section 204 of the Demonstration Cities and Metropolitan Development Act of 1966 and title IV of the Intergovernmental Cooperation Act of 1968.

GUIDELINES AND REQUIREMENTS FOR GROWTH POLICY PLANS

SEC. 202. (a) An agency specified in section 201(a) must meet, or give adequate assurance that it will meet, the following requirements in the development of a growth policy plan described in subsection (b) of this section to be eligible for grants under this title. Such agency—

(1) shall be designated by the Governor or established by law if for a single State or a metropolitan area within a State, or be established by interstate compact, if for a metropolitan area involving more than one State, and shall have primary authority and responsibility for the development and administration of the growth policy plan for the State or metropolitan area;

(2) shall have a competent and adequate interdisciplinary professional and technical staff as well as special consultants who will be available to the agency to develop the plan;

(3) shall, to the maximum extent feasible, use pertinent local, State, and Federal plans, studies, information, data, or growth policy planning already available in order to avoid unnecessary repetition of effort and expense; and

(4) shall include some representation of localities involved in the plan.

(b) During the first three full fiscal years following the initial publication of regulations by the Council implementing the provisions of this title, such agency shall, as a condition of continued grant eligibility, develop a growth policy plan which—

(1) identifies the portions of the State or metropolitan area subject to enforcement of the plan, which shall include all lands within the boundaries of the State or metropolitan area, except lands the use of which is by law subject solely to the discretion of, or which is held in trust by, the Federal Government or its officers or agents;

(2) identifies areas—

(A) where ecological, environmental, geological, or physical conditions dictate that certain types of growth are undesirable;

(B) which are best suited for agricultural, mineral, industrial, or commercial development;

(C) where transportation and utility facilities are, or should in the future be located;

(D) which furnish the amenities and the basic essentials to the development of new towns and the revitalization of existing communities;

(E) which, notwithstanding Federal ownership or jurisdiction, are important to the State or metropolitan area for industrial, commercial, mineral, agricultural, recreational, ecological, or other purposes;

(F) which, although located outside the State or metropolitan area, have substantial, actual, or potential impact upon growth patterns within the State or metropolitan area; and

(G) which are of unusual national significance and value;

(3) includes appropriate provisions designed to insure that projected requirements for material goods, food, natural resources, energy, housing, recreation, and environmental amenities have been given full and adequate consideration;

(4) includes provisions designed to insure that the plan is consistent with applicable local, State, metropolitan, and Federal standards relating to the maintenance and enhancement of the quality of the environment and the conservation of public resources;

(5) provides for assuring orderly and efficient patterns of growth;

(6) includes provisions to insure that transportation and utility facilities are established in compliance with metropolitan and State needs, State policies, and policies and goals set forth in other Federal legislation;

(7) provides for measures such as buffer zones, scenic easements, prohibitions against nonconforming uses, and other means of assuring the preservation of esthetic qualities to insure that federally designated, financed and owned areas, including, but not limited to, elements of the national park system, wilderness areas, and game and wildlife refuges, are not damaged, degraded, or in any way adversely affected as a result of inconsistent or incompatible growth patterns in the immediate geographical area;

(8) provides for other appropriate factors having significant growth policy implications;

(9) provides a method for assuring that local regulations do not restrict or exclude development and growth of State or metropolitan area benefit;

(10) includes site selection criteria for the location of new communities and a method for assuring appropriate controls of growth around new communities;

(11) provides a method for effectively controlling proposed large-scale development of more than local significance in its impact upon the environment; and

(12) includes a system of controls and regulations pertaining to areas and developmental activities referred to in the preceding clauses which is designed to assure that any source of air, water, noise, or other pollution will not be located where it would result in a violation of any applicable air, water, noise, or other pollution standard or implementation plan.

(c) To retain eligibility for grants following the three fiscal years referred to in subsection (b)—

(1) such plan must be approved by the Council in accordance with section 203; and

(2) such agency—

(A) must have authority to implement the approved plan and enforce its provisions, except that in the case of an interstate agency such implementation and enforcement must be carried out by appropriate State agencies;

(B) may have the authority to acquire interests in real property;

(C) must have the authority to prohibit growth in a manner which is inconsistent with the provisions of the plan, except that this requirement need not apply to an interstate agency;

(D) must have and exercise the authority to conduct public hearings, allowing full public participation and granting the right of appeal to aggrieved parties, in connection with the dedication of any area subject to restricted or special use under the plan; and

(E) must have reasonable procedures for periodic review of the plan, for purposes of granting variances from and making modifications in the plan, including public notice and hearings, in order to meet changed future conditions and requirements.

(d) Nothing in this section shall be deemed to preclude a State or metropolitan area from planning for growth or for implementing a plan in stages, with respect to either—

(1) particular geographical areas including but not limited to coastal zones, or

(2) particular kinds of uses, as long as the other requirements of this Act are met.

(e) Nothing in this Act shall be deemed to preclude the delegation of local governmental entities of authority to plan for growth and enforce restrictions on growth adopted pursuant to the plan, including the assignment of funds authorized by this Act, to the extent available except that—

(1) such agency shall have ultimate responsibility for approval and coordination of local plans and enforcement procedures;

(2) only the plan submitted by such agency will be considered by the Council;

(3) such plan must be consistent with the guidelines established by this Act; and

(4) such agency shall be responsible to the Council for the management and control of any Federal funds assigned or delegated to any local government or other entity within the State or metropolitan area concerned, concomitant with the agency's responsibility to units of State and local governments established under existing coordinating mechanisms.

REVIEW OF PLANS

SEC. 203. (a) Upon completion of each growth policy plan—

(1) the agency responsible for the development of the plan shall submit it to the Council;

(2) the Council shall submit the plan for review and comments to those Federal agencies the Council considers to have significant interest in or impact upon growth within the State or metropolitan area concerned, and a period of ninety days shall be provided for the review; and

(3) upon completion of the review period established by clause (2) of this subsection, the Council shall review the plan along with the agency comments and approve the plan if it—

(A) conforms with the policy, guidelines, and requirements declared in this title;

(B) is compatible with the plans and proposed plans of other States and metropolitan areas, so that regional and national growth policy considerations are accommodated; and

(C) does not conflict with the objectives of Federal programs authorized by law.

(b) Modifications may be made or variances granted in any growth policy plan unless such modification or variance renders the plan inconsistent with the policies, guidelines, and other requirements in this Act. Provisions for such modifications or variances shall be included in the plan as reported to the Council. The Council shall approve such provisions unless they cause the plan to no longer meet the criteria set forth in subsection (a).

(c) In the event the Council determines that grounds exist for disapproval of a growth policy plan or, having approved such a plan, subsequently determines that grounds exist for withdrawal of such approval pursuant to section 208, it shall notify the President, who shall establish an ad hoc hearing board, the membership of which shall consist of:

(1) the Governor of a State other than the State or States included in the plan, whose State does not have a particular interest in the approval or disapproval of the plan, or such alternate person as is designated by such Governor;

(2) one knowledgeable, impartial Federal official, who is not a member of or responsible to a member of the Council;

(3) one knowledgeable, impartial private citizen, selected by the other two members, except that if such members cannot agree upon a third member within ten days after the appointment of the second member to be appointed, the third member shall be selected by the President.

(d) The hearing board shall meet as soon as practicable after all three members have been appointed. The Council shall specify in detail to the hearing board its reasons for considering disapproval or withdrawal of approval of the plan. The hearing board shall hold such hearings and receive such evidence as it deems necessary. The hearing board

shall then determine whether disapproval or withdrawal of approval would be reasonable, and set forth in detail the reasons for its determination. If the hearing board determines that the proposed action of the Board is unreasonable, the Council shall terminate such proposed action.

(e) Members of hearing boards who are not regular full-time officers or employees of the United States shall, while carrying out their duties as members, be entited to receive compensation at a rate fixed by the President, but not exceed $100 per diem, including traveltime, and while away from homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence as authorized by law for persons in Government service employed intermittently. Expenses of hearing boards shall be paid out of appropriations available for the Executive Office of the President, and administrative support for hearing boards shall be provided by the Executive Office of the President.

(f) The President may issue such regulations as may be necessary to carry out the provisions of this section.

COORDINATION OF FEDERAL PROGRAMS

SEC. 204. (a) All Federal departments and agencies, including the Office of Management and Budget, conducting or supporting activities affecting growth in an area subject to an approved growth policy plan shall operate in accordance with the plan. In the event that a departure from the plan appears necessary in the national interest, the agency shall submit the matter to the Council. The Council may approve a federally-conducted or supported project a portion or portions of which may be inconsistent with such a plan if it finds that—

(1) the project is essential to the national interest; and

(2) there is no reasonable and prudent alternative which would be consistent with the plan.

If the Council fails to approve the project, the project may be undertaken only upon the express approval of the President. The President may approve projects inconsistent with an approved growth policy plan only when overriding considerations of national policy require such approval.

(b) State and metropolitan area agencies submitting applications for Federal assistance for activities having significant growth policy implications in an area subject to an approved growth policy plan shall submit a statement of the views of the agency administering such plan as to the consistency of such activities with the plan. This statement should also meet the minimum requirements of the environmental impact statement required under section 102(2)(C) of the National Environmental Policy Act of 1969.

(c) All Federal agencies responsible for administering grant, loan, or loan guarantee programs for activities which influence patterns of growth, including but not limited to home mortgage and interest subsidy programs, shall administer such programs in a manner which meet the requirements of applicable growth policy plans.

(d) Any Federal agency conducting or assisting public works projects in areas not subject to an approved growth policy plan shall, to the extent practicable, conduct those activities in accord with sound public works investment policies so as to minimize any adverse environmental or social impact resulting from decisions concerning growth policy.

(e) Officials of the Federal Government charged with responsibility for the management of federally-owned lands shall take cognizance of the planning efforts of growth policy planning agencies of States or metropolitan areas within which or near the boundaries of which such Federal lands are located and shall coordinate Federal growth policy planning to the extent such coordination is practicable and not inconsistent with paramount national policies, programs, and interests.

GRANT FORMULA

SEC. 205. (a) From the sums appropriated under section 7, the Council is authorized to make grants to agencies eligible for assistance under this title in an amount not to exceed 90 per centum of the estimated cost of developing growth policy plans during three full fiscal years after the initial publication by the Council of regulations implementing the provisions of this title. Thereafter, grants may be made in an amount not to exceed two-thirds of such agency's cost of administering such plans. Not less than 30 per centum of any sums appropriated shall be available solely for metropolitan area agencies.

(b) Such grants shall be allocated in accordance with regulations of the Council which shall take into consideration the amount and nature of resource base populations, pressures resulting from growth, financial need, and other relevant factors.

(c) Any such grant shall provide for an increase and not replace growth policy planning activities. Any such grant shall be in addition to and may be used jointly with, grants or other funds available for growth policy planning surveys, or investigations under other federally-assisted programs.

(d) Not more than 10 per centum of any funds granted pursuant to this Act to any planning agency in any fiscal year may be expended for the acquisition of interests in real property.

GRANT COMPUTATIONS AND PAYMENTS

SEC. 206. The method of computing and paying amounts pursuant to this title shall be as follows:

(1) The Council shall, prior to the beginning of each calendar quarter or other period prescribed by it, estimate the amounts to be paid to each agency under the provisions of this title for such period, based on such records of the agency and information furnished by it, and such other investigation as the Council may find necessary.

(2) The Council shall pay to the agency from the allocation available to such agency the amounts so estimated for such period, reduced or increased as the case may be, by any sum (not previously adjusted under this paragraph) by which it finds that its estimate of the amount to be paid such agency for any period under this title was greater or less than the amount which would have been paid to such agency for such prior period under this title. Such payments shall be made through the disbursing facilities of the Department of the Treasury at such times and in such installments as the Council may determine.

FINANCIAL RECORDS

SEC. 207. (a) Each recipient of a grant under this title shall keep such records as the Council shall prescribe, including records which fully disclose the amount and disposition of the funds received under the grant and the total cost of the project or undertaking in connection with which the grant was made and the amount and nature of any portion of the cost of the project or undertaking supplied by other cources, and such other records as will facilitate an effective audit.

(b) Such other records shall be kept and made available and such reports and evaluations shall be made as the Council may require regarding the status and application of Federal funds made available under the provisions of this title.

(c) The Council and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access, for the purpose of audit and examination, to any books, documents, papers, and records of the recipient of the grant that are pertinent to the determination that funds granted were used in accordance with this Act.

TERMINATION OF ASSISTANCE

SEC. 208. (a) The Council is authorized to terminate any financial assistance under this title and withdraw its approval of a growth policy plan, whenever, after the agency concerned has been given notice of a proposed termination and an opportunity for hearing, the Council finds that—

(1) such agency has failed to adhere to the guidelines and requirements of this title in the development of the plan;

(2) the plan has not been implemented in accordance with section 202(c) or otherwise fails to meet the requirements of this title; or

(3) the plan has been changed or administered so that it no longer complies with the requirements of this title.

SANCTIONS AND NONCOMPLIANCE

SEC. 209. (a) After the end of three full fiscal years after the initial issuance of regulations by the Council implementing the provisions of this title, no Federal agency shall, except with respect to Federal lands, furnish or propose to furnish assistance under any new State administered program which may have a substantial adverse environmental impact or which would or would tend to affect irreversibly or irretrievably substantial growth in any area which is not covered by a growth policy plan submitted in accordance with this title.

(b) Upon application by the Governor of a State or head of the Federal agency concerned, the President may temporarily suspend the application of subsection (a) with respect to any particular program, if he deems such suspension necessary for the public health, safety, or welfare, except that no such suspension shall be granted unless a timetable for the date of completion of the plan concerned, acceptable to the Council, is submitted. No subsequent suspension shall be granted unless the President finds that due diligence has been exercised to comply with the terms of that timetable.

TITLE III—REPORT ON CONSOLIDATION OF FEDERAL COMPREHENSIVE PLANNING ACTIVITIES AND PLANNING ASSISTANCE PROGRAMS

SEC. 301. (a) In order to facilitate the formation of the Council, the expeditious development of its activities, and the prevention of duplication and overlapping of its functions with other departments and agencies, the President shall transfer to the Council, in addition to the specific transfers otherwise provided for in this Act, any functions such as the collection, analysis and dissemination of information, the administration of planning grants, or the review of proposals for Federally assisted projects or programs, or both, which in his judgment, are so closely associated with the functions of the Council, to warrant such transfer.

(b) Not later than six months after the date of enactment of this Act, the President shall report to the Congress which units and activities he proposes to transfer to the Council. Such transfers shall take effect after ninety days following such report, unless otherwise provided by Act of Congress.

TITLE IV—REGIONAL GROWTH PLANNING AND DEVELOPMENT COMMISSIONS

DECLARATION OF FINDINGS AND PURPOSE

SEC. 401. (a) The Congress finds that effective and equitable use of Federal resources in assisting the States and localities with their economic, social, and environmental needs requires a framework of policies for their growth, development, and stabilization which is consistent, realistic, and attainable. The Congress further finds that continuing and systematic consultation and joint decision-making among the Federal, State, and local governments is necessary to establish

and appropriate policy framework and to keep it up to date, and that no administrative channels exist through which such continuing and systematic consultation and joint decision-making can take place. It is the purpose of this title to provide for consultation and joint decision-making through the establishment of multi-State regional growth planning and development commissions.

DETERMINATION OF REGIONAL BOUNDARIES

SEC. 402. (a) For purposes of this title, the President is hereby authorized and directed to submit to Congress within six months after the date of enactment of this Act a report containing his recommendations for the establishment of not less than eight nor more than twelve growth planning and development regions. Such recommendations shall be effective at the end of the first period of 90 calendar days of continuous session of Congress after the date on which the recommendations are submitted to it unless, between the date of submission and the end of the 90-day period, either House passes a resolution stating in substance that that House does not favor the recommendations. For the purpose of this subsection—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain are excluded in the computation of the 90-day period.

(b) In determining regional boundaries, the President shall take into consideration recommendations made by State and local governments. He shall also take into consideration the following criteria to the maximum extent feasible—

(1) adherence to State boundaries;

(2) inclusion of entire metropolitan areas and multi-county development districts; and

(3) inclusion of interstate areas with common economic, social or environmental problems requiring joint effort on the part of Federal, State, and local governments.

ESTABLISHMENT OF REGIONAL GROWTH PLANNING AND DEVELOPMENT COMMISSIONS

SEC. 403. (a) For each region designated pursuant to section 402, there shall be established a Regional Growth Planning and Development Commission. Recommendations concerning the establishment of each Commission shall be made by the President to Congress and by the Governor of each State included in the region to the legislature of that State. The President is authorized and directed to declare the establishment of each Commission upon the approval thereof by concurrent resolution of the Congress and by Act of each of the State legislatures in the region.

(b) Each Regional Growth Planning and Development Commission shall consist of the Governor of each State which is included in whole or in part in the region, and representative of the Council who shall be appointed by the President by and with the advice and consent of the Senate. The representative so appointed shall serve as Federal Co-Chairman of the Commission. A Governor selected initially by a Commission shall serve as State Co-Chairman, for a term of six months, to be succeeded by each of the other Governors who shall each serve a term of six months.

(c) The Federal Co-Chairman shall be responsible to the President through the Council. He shall also maintain direct contact as appropriate with the regional offices of all Federal agencies having grant-in-aid or other programs affecting the growth and development of the region. Each Federal Co-Chairman shall be compensated by the Council from funds appropriated for the purpose of this Act at a rate equal to that provided for level IV of the Executive Schedule under section 5315 of title 5, United States Code. The Council shall also furnish each such Co-Chairman with such staff assistance as may be necessary.

(d) Each State may have one alternate member of a Commission who shall have authority to act as the State member and to cast the State vote in the absence of the Governor. Such alternate members and their staffs shall be paid by State funds.

(e) Each Regional Growth Planning and Development Commission shall have an Executive Director, who shall serve as the general manager of the Commission's program, carry out his duties under the general direction of the Commission under the direction of the Executive Committee established in subsection (f).

(f) Each Regional Growth Planning and Development Commission shall have an Executive Committee consisting of the Federal Co-Chairman, the alternate member from the State whose Governor is currently serving as State Co-Chairman or that Governor, and the Executive Director who shall not be entitled to vote. The Executive Committee shall be responsible to the Commission for overall policy and management of the program.

(g) Commission decisions shall be determined by vote of the members. All decisions shall require affirmative votes by at least a majority of the States represented. No such decision shall be binding on any State without the affirmative vote of the Governor of, or the alternate member from, the State affected.

(h) For the period ending on June 30 of the second full fiscal year following the date of establishment of a Commission, the administrative expenses of each Commission as approved by the Council shall be paid out of sums appropriated under section 406. Thereafter, not to exceed 50 per centum of such expenses may be paid out of such sums. In determining the amount of non-Federal share of such costs or expenses, the Council shall give due consideration to all contributions both in cash and in kind, fairly evaluated, including but not limited to space, equipment, and services.

FUNCTIONS

SEC. 404. (a) The functions of the Regional Growth Planning and Development Commissions shall include, but not be limited to—

(1) establishing systems of policy formulation and planning in coordination with Federal, State, district and local governments and organizations of government officials;

(2) serving as coordinators of State, metropolitan area, and district comprehensive plans, including taking such steps as are necessary to assure the compatibility of such plans with each other;

(3) being responsible for interstate planning;

(4) cooperating with each other, and to the extent possible, maintaining inter-regional compatibility in plan formulation and recommendations;

(5) serving as major continuing contributors to the formulation of national urban and rural growth policies;

(6) advising the Council of the most effective application of Federal resources through the National Development Bank, State and metropolitan area planning or development agencies; and

(7) providing assurance that regional plans and developments are not inconsistent with National Growth Policy.

(b) In order to achieve the purposes set forth in subsection (a), each Regional Growth Planning and Development Commission shall—

(1) foster and undertake such studies of regional resources and problems as are essential to the planning process;

(2) undertake a program of information exchange with the Federal Government, with other regional commissions, and with the States and districts within its own region;

(3) maintain a continuing study of the adequacy of administrative and statutory means for the coordination of plans and programs of the different Federal, State, district and local governments, agencies, and organizations of government officials; and

(4) establish an educational and research effort to assist State and local governments in improving the skills and proficiency of their officials and staff in the management and administration of government and public services.

ADMINISTRATIVE POWERS

SEC. 405. (a) Each Regional Commission shall establish, after consultation with other interested entities, both Federal and non-Federal, principles, standards, and procedures for participants in the preparation, coordination, and implementation of comprehensive regional plans.

(b) To carry out its duties under this title, each Regional Commission is authorized to—

(1) adopt, amend, and repeal bylaws, rules, and regulations governing the conduct of its business and the performance of its functions;

(2) appoint and fix the compensation of the Executive Director and such other personnel as may be necessary to enable the Commission to carry out its functions, except that no member, alternate, officer, or employee of such Commission, other than the Federal Co-Chairman on the Commission and his staff, and Federal employees detailed to the Commission under clause (3), shall be deemed Federal employees for any purpose;

(3) request the head of any Federal department or agency (who is hereby so authorized) to detail for temporary duty with the Commission such personnel as the Commission may need for carrying out its functions;

(4) arrange for the services of personnel from any State or local government or any subdivision or agency thereof, or any intergovernmental agency;

(5) make arrangements, including contracts, with any participating State government for inclusion in a suitable retirement and employee benefit system of such of its personnel as may not be eligible for, or continue in, another governmental retirement or employee benefit system, or otherwise provide for such coverage of its personnel;

(6) accept, use, and dispose of gifts or donations of services or property, real, personal, or mixed, tangible or intangible;

(7) enter into and perform such contracts, leases, cooperative agreements, or other transactions as may be necessary in carrying out its functions and on such terms as it may deem appropriate, with any department, agency, or instrumentality of the United States or with any State, or any political subdivision, agency, or instrumentality thereof, or with any person, firm, association, or corporation;

(8) maintain an office in the District of Columbia and establish field offices at such other places as it may deem appropriate; and

(9) take such other actions and incur such other expenses as may be necessary or appropriate.

(c) In order to obtain information needed to carry out its duties, each Regional Commission is authorized to—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and print or otherwise reproduce and distribute so much of its proceedings and reports thereon as it may deem advisable, a Co-Chairman of such Commission, or any member of the Commission designated by the Commission for the purpose being hereby authorized to administer oaths when it is determined by the Commission that testimony shall be taken or evidence received under oath;

(2) arrange for the head of any Federal,

State, or local department or agency (who is hereby so authorized, to the extent not otherwise prohibited by law) to furnish to such Commission such information as may be available to or procurable by such department or agency; and

(3) keep accurate and complete records of its activities and transactions which shall be made available for public inspection.

(d) The Executive Director of each Regional Commission shall, with the concurrence of the Executive Committee, appoint the personnel employed by such Commission, and shall, in accordance with the general policies of such Commission with respect to the work to be accomplished by it and the timing thereof, be responsible for (1) the supervision of personnel employed by such Commission, (2) the assignment of duties and responsibilities among such personnel, and (3) the use and expenditure of funds available to such Commission.

APPROPRIATIONS AUTHORIZED

SEC. 406. There is hereby authorized to be appropriated for the purposes of this title the sum of $35,000,000 for the fiscal year ending June 30, 1972, and the sum of $35,000,000 for each fiscal year thereafter. Any sums so appropriated shall remain available until expended.

TITLE V—STATE AND METROPOLITAN AREA DEVELOPMENT AGENCIES

DECLARATION OF PURPOSE

SEC. 501. It is the purpose of this title to encourage the formation of State and metropolitan area development agencies which have broad and flexible authority to carry out development activities designed to (1) provide housing and related facilities for persons and families of low and moderate income, (2) promote the sound growth and development of neighborhoods through the revitalization of slum and blighted areas, and (3) increase and improve employment opportunities through the development and redevelopment of industrial, manufacturing, and commercial facilities.

ELIGIBLE DEVELOPMENT AGENCIES

SEC. 502. (a) A State or metropolitan area development agency is eligible for assistance under this title only if the Secretary of Housing and Urban Development (hereinafter referred to as the "Secretary") determines that it is fully empowered and has adequate authority, acting as a large-scale developer, to carry out the purposes specified in subsection (b), including the authority to sell, lease, or otherwise dispose of its interest in projects undertaken by it in carrying out the purposes of this title, to participate in programs or projects carried on by Federal, State, or local governments, to provide for the relocation of persons, families, business concerns, and nonprofit organizations displaced in carrying out its development activities, to exercise its powers and functions through subsidiaries established by it, and to establish community advisory committees to advise it concerning its proposed activities in any area.

(b) For the purposes of this title—

(1) a "State development agency" means any public body or agency, publicly sponsored corporation, or instrumentality of one or more States; and

(2) a "metropolitan area development agency" means any public body or agency, publicly sponsored corporation, or other instrumentality of two or more units of general local government which are located in a standard metropolitan statistical area (as defined by the Office of Mangement and Budget) and one of which is the central city of such standard metropolitan statistical area, but only if such public body or agency, publicly sponsored corporation, or other instrumentality has as its general purposes in whole or in part (A) the provision of decent, safe, and sanitary housing and related facilities for low-income and moderate-income persons and families through construction, rehabilitation, or management of housing, (B) the revitalization of slum and blighted urban neighborhoods through clearance, reconstruction, and rehabilitation of such neighborhoods and the provision of necessary public and community facilities and services, and (C) the development of job opportunities for unemployed and underemployed persons through the development of new, and the redevelopment of existing, industrial, manufacturing, and commercial facilities.

(c) As used in this title, the term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, or any agency or instrumentality of the foregoing.

GUARANTEES OF OBLIGATIONS

SEC. 503. (a) The Secretary of Housing and Urban Development is authorized to guarantee, and enter into commitments to guarantee, the bonds, debentures, notes, and other obligations issued by State and metropolitan area development agencies to finance development activities as determined by him to be in furtherance of the purpose of this title. The Secretary may make such guarantees and enter into such commitments upon such terms and conditions as he may prescribe, except that no obligation shall be guaranteed under this title if the income from such obligation is exempt from Federal taxation, The Secretary is authorized to make grants to any State or metropolitan area development agency the obligations of which are guaranteed under this title in amounts estimated by him not to exceed the difference between the interest paid on such obligations and the interest (as estimated by him) which would be paid on similar obligations the income from which is exempt from Federal taxation.

(b) The full faith and credit of the United States is pledged to the payment of all guarantees made under this title with respect to principal, interest, an any redemption premiums. Any such guarantee made by the Secretary shall be conclusive evidence of the eligibility of the obligations involved for such guarantee, and the validity of any guarantee so made shall be incontestable in the hands of a holder of the guaranteed obligation.

(c) The Secretary is authorized to establish and collect such fees and charges for and in connection with guarantees made under this title as he considers reasonable.

(d) The aggregate principal amount of the obligations which may be guaranteed under this title and outstanding at any one time shall not exceed $500,000,000.

LIMITATION OF GUARANTEES

SEC. 504. The Secretary shall take such steps as he considers reasonable to assure that bonds, debentures, notes, and other obligations which are guaranteed under section 503 will—

(1) be issued only to investors approved by, or meeting requirements prescribed by, the Secretary, or, if an offering to the public is contemplated, be underwritten upon terms and conditions approved by the Secretary;

(2) bear interest at a rate satisfactory to the Secretary;

(3) contain or be subject to repayment, maturity, and other provisions satisfactory to the Secretary; and

(4) contain or be subject to provisions with respect to the protection of the security interests of the United States, including the recording of liens, payment of taxes, cost certification procedures, escrow or trusteeship requirements, or other matters.

REVOLVING FUND

SEC. 505. (a) The Secretary is authorized to establish a revolving fund to provide for the timely payment of any liabilities incurred as a result of guarantees or grants under section 503 and for the payment of obligations issued to the Secretary of the Treasury under subsection (b) of this section. Such revolving fund shall be comprised of (1) receipts from fees and charges; (2) recoveries under security, subrogation, and other rights; (3) repayments, interest income, and any other receipts obtained in connection with guarantees made under section 503; (4) proceeds of the obligations issued to the Secretary of the Treasury pursuant to subsection (b) of this section; and (5) such sums, which are hereby authorized to be appropriated, as may be required for the purpose of making grants to agencies under section 503. Money in the revolving fund not currently needed for the purpose of this title shall be kept in cash on hand or on deposit, or invested in obligations of the United States or guaranteed thereby, or in obligations, participations, or other instruments which are lawful investments for fiduciary, trust, or public funds.

(b) The Secretary may issue obligations to the Secretary of the Treasury in an amount sufficient to enable the Secretary to carry out his functions with respect to the guarantees authorized by section 503. The obligations issued under this subsection shall have such maturities and bear such rate or rates of interest as shall be determined by the Secretary of the Treasury. The Secretary of the Treasury is authorized and directed to purchase any obligations so issued, and for that purpose he is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under that Act are extended to include purchases of the obligations hereunder.

(c) Notwithstanding any other provision of law relating to the acquisition, handling, improvement, or disposal of real and other property by the United States, the Secretary shall have power, for the protection of the interests of the fund authorized under this section, to pay out of such fund all expenses or charges in connection with the acquisition, handling, improvement, or disposal of any property, real or personal, acquired by him as a result of recoveries under security, subrogation, or other rights.

GRANTS

SEC. 506. (a) The Secretary is authorized to make and contract to make grants to State and metropolitan area development agencies, in such amounts and under such terms and conditions as he prescribes, to assist in defraying the administrative and operating expenses of such agencies during the first three full fiscal years of their operation. Grants made to any such agency under this section shall not exceed (1) the full amount of its administrative and operating expenses during the first full fiscal year of its operations under this title, (2) two-thirds of such expenses during the second full fiscal year of such operations, and (3) one-half of such expenses during the third full fiscal year of such operations.

(b) There are authorized to be appropriated for grants under this section not to exceed $20,000,000 for each of the fiscal years ending June 30, 1973, June 30, 1974, and June 30, 1975. Any amounts so appropriated shall remain available until expended, and any amounts authorized for any fiscal year but not appropriated may be appropriated for any succeeding fiscal year.

TECHNICAL ASSISTANCE

SEC. 507. The Secretary is authorized to provide, either directly or by contract or other arrangements, technical assistance to State and metropolitan area development agencies to assist them in connection with planning and carrying out development activities in furtherance of the purpose of this title.

LABOR STANDARDS

SEC. 508. All laborers and mechanics employed by contractors or subcontractors in development activities assisted under this title shall be paid wages at rates not less than those prevailing on similar work in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a–276a–5): *Provided*, That this section shall apply to the construction of residential property only if such residential property is designed for residential use for twelve or more families. No assistance shall be extended under this title with respect to any development activities without first obtaining adequate assurance that these labor standards will be maintained upon the work involved in such activities. The Secretary of Labor shall have, with respect to the labor standards specified in this section, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (64 Stat. 1267), and section 2 of the Act of June 13, 1934 (40 U.S.C. 276c).

GENERAL PROVISIONS

SEC. 509. (a) In the performance of, and with respect to, the functions, powers, and duties vested in him by this title, the Secretary, in addition to any authority otherwise vested to him, shall—

(1) have the power, notwithstanding any other provision of law, in connection with any assistance under this title, whether before or after default, to provide by contract for the extinguishment upon default of any redemption, equitable, legal, or other right, title, or interest of a State or metropolitan area development agency in any mortgage, deed, trust, or other instrument held by or on behalf of the Secretary for the protection of the security interests of the United States; and

(2) have the power to foreclose on any property or commence any action to protect or enforce any right conferred upon him by law, contract, or other agreement, and bid for and purchase at any foreclosure or other sale any property in connection with which he has provided assistance pursuant to this title. In the event of any such acquisition, the Secretary may, notwithstanding any other provision of law relating to the acquisition, handling, or disposal of real property by the United States, complete, administer, remodel and convert, dispose of, lease, and otherwise deal with, such property. Notwithstanding any other provision of law, the Secretary shall also have power to pursue to final collection by way of compromise or otherwise all claims acquired by him in connection with any security, subrogation, or other rights obtained by him in administering this title.

(b) There are authorized to be appropriated such sums as may be necessary for the administrative expenses of carrying out this title, including the expenses of providing assistance under section 507.

TITLE VI—NATIONAL DEVELOPMENT BANK

FINDINGS AND DECLARATION OF PURPOSE

SEC. 601. It is the purpose of this title to broaden the sources and decrease the costs of obtaining capital funds for State and local governments by establishing, with State and local governments, a National Development Bank to make long-term development loans and provide technical assistance to such governments and their agencies to help them meet needs for essential public works and community facilities, including the acquisition of land necessary thereto.

CREATION OF BANK

SEC. 602. There is hereby created a body corporate to be known as the National Development Bank, which shall have succession until dissolved by Act of Congress. The bank, which shall be an independent agency of the United States Government, shall maintain such offices as may be necessary or appropriate in the conduct of its business. Neither the bank nor any of its functions, powers, or duties shall be transferred to or consolidated with any other department, agency, or corporation of the United States Government unless the Congress shall otherwise by law provide.

BOARD OF DIRECTORS

SEC. 603. (a) The bank shall have a board of directors which shall consist of fourteen persons, one of whom shall be the president of the bank. The President of the United States, by and with the advice and consent of the Senate, shall appoint the directors, not more than three of whom shall be officers or employees of the United States and at least seven of whom shall be persons identified with or representative of State or local government.

(b) The board of directors shall meet at the call of its chairman, who shall require it to meet not less often than once each month.

(c) The President, by and with the advice and consent of the Senate, shall appoint a president of the bank, who shall serve at the pleasure of the President. The president shall be chairman of the board of directors. Subject to the general policies of the board, the management of the bank shall be vested in the president and he shall be the chief executive officer of the bank.

INITIAL EXPENSES

SEC. 604. In order to facilitate the formation of the bank, the Secretary of Housing and Urban Development is authorized to pay its initial organizing and operating expenses. There is authorized to be appropriated a sum not to exceed $1,000,000, which sum shall be available for the purposes of this section for a period of three years from the date of the enactment of this Act.

FUNCTIONS

SEC. 605. (a) The bank is authorized, subject to the provisions of this section, to make commitments to purchase, and to purchase, service, or sell, on terms and conditions determined by the bank, any obligation (or participation therein) of a State or local government, except that no obligation may be purchased under this title if the income from such obligation is exempt from Federal taxation.

(b) Purchases made by the bank shall be in accordance with sound and prudent development banking principles. No commitment for any purchases shall be entered into, and no purchase shall be made, unless the bank determines that the proceeds of such purchase will be used by the borrower to finance capital expenditures for public works and community facilities serving community needs.

(c) The bank shall develop criteria to assure that projects assisted by it are not inconsistent with comprehensive planning for the development of the community in which the projects to be assisted will be located or disruptive of Federal programs which authorize Federal assistance for the development or like or similar categories of projects.

(d) The bank shall develop criteria to assure that projects assisted by it are not inconsistent with the regulations of the National Growth Planning Council.

(e) Any obligations purchased pursuant to this section may be in an amount not exceeding the total capital cost of the project to be financed with the proceeds thereof, shall be secured in such manner and be repaid in such period, not exceeding forty years, as may be determined by the bank, and shall bear interest at a rate determined by the bank which shall not be less than two-thirds of the current average yield on outstanding obligations of the bank as of the last day of the month preceding the date on which the purchase is made.

OBLIGATIONS OF THE BANK

SEC. 606. (a) The bank is authorized, with the approval of the Secretary of the Treasury, to issue and have outstanding obligations having such maturities and bearing such rate or rates of interest as may be determined by the bank. Such obligations may be redeemable at the option of the bank before maturity in such manner as may be stipulated therein. The aggregate amount of obligations of the bank outstanding at any one time shall not exceed $5,000,000,000, which amount shall be increased by $5,000,000,000 on July 1, 1974, and by $5,000,000,000 on July 1, 1975. The full faith and credit of the United States is pledged to the payment of all obligations issued pursuant to this subsection with respect to both principal and interest. The bank is authorized to purchase in the open market any of its outstanding obligations.

(b) In addition to the obligations of the bank authorized to be outstanding in subsection (a) of this section, the bank is authorized to issue obligations to the Secretary of the Treasury. The Secretary of the Treasury is authorized to purchase any such obligations in order to insure the financial integrity of the operations of the bank, and for such purpose the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds of the sale of any securities hereafter issued under the Second Liberty Bond Act, as now or hereafter in force, and the purposes for which securities may be issued under the Second Liberty Bond Act as now or hereafter in force are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determinated by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturities. The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as he shall determine, any of the obligations acquired by him under this subsection. All redemptions, purchases, and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

(c) The receipts and disbursements of the bank in the discharge of its functions shall not be included in the totals of the budget of the United States Government and shall be exempt from any annual expenditure and net lending (budget outlays) limitations imposed on the budget of the United States Government. In accordance with the provisions of the Government Corporation Control Act, the President shall transmit annually to the Congress a budget for program activities and for administrative expenses of the bank, which budget shall also include the estimated annual net borrowing by the bank from the United States Treasury. The President shall report annually to the Congress the amount of net lending of the bank, including any net lending created by the net borrowing from the United States Treasury, which would be included in the totals of the budget of the United States Government if the bank's activities were not excluded from from those totals as a result of this subsection.

FEDERAL PAYMENT TO THE BANK

SEC. 607. (a) With respect to such amounts of purchases made by the bank as may be specified in appropriation Acts, the Secretary of Housing and Urban Development is authorized to make, and to contract to make, annual payments to the bank in such amounts as are necessary to equal the amount by which the dollar amount of interest paid by the bank on account of its

obligations exceeds the dollar amount of interest received by the bank on account of purchases made by it pursuant to section 605 of this Act.

(b) There are hereby authorized to be appropriated to the Secretary of Housing and Urban Development such sums as may be necessary to carry out the provisions of the title, including such sums as may be necessary to make the annual payments required by contracts entered into by the Secretary pursuant to subsection (a) of this section.

GENERAL POWERS

SEC. 608. The bank shall have power—

(1) to sue and be sued, complain and defend, in its corporate name and through its own counsel;

(2) to adopt, alter, and use a corporate seal, which shall be judicially noticed;

(3) to adopt, amend, and repeal by its board of directors such bylaws, rules, and regulations as may be necessary for the conduct of its business;

(4) to conduct its business, carry on its operations, and have offices and exercise the powers granted by this title in any State without regard to any qualification or similar statute in any State;

(5) to lease, purchase, or otherwise acquire, own, hold, improve, use or otherwise deal in and with, any property, real, personal, or mixed, or any interest therein, wherever situated;

(6) to accept gifts or donations of services, or of property, real, personal, or mixed, tangible or intangible, in aid of any of the purposes of the bank;

(7) to sell, convey, mortgage, pledge, lease, exchange, and otherwise dispose of its property and assets;

(8) to appoint such officers, attorneys, employees, and agents as may be required, to determine their qualifications, to define their duties, to fix their salaries, and to require bonds for them and fix the penalty thereof; and

(9) to enter into contracts to execute instruments to incur liabilities, and to do all things necessary or incidental to the proper management of its affairs and the proper conduct of its business.

TECHNICAL ASSISTANCE

SEC. 609. (a) The bank is authorized to provide technical assistance to State, metropolitan area, and other governmental agencies in the preparation and implementation of comprehensive development projects and programs, including the evaluation of priorities and the formulation of specific project proposals. The bank may charge appropriate fees for its services under this subsection.

(b) The bank is also authorized to undertake research and information gathering activities, and to facilitate the exchange of advanced concepts and techniques relating to national growth and development among State and local governments.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 610. (a) The financial transactions of the bank shall be audited by the General Accounting Office in accordance with the principles and procedures applicable to commercial corporate transactions and under such rules and regulations as may be prescribed by the Comptroller General of the United States. The audit shall be conducted at the place or places where the accounts are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, financial records, reports, files, and all other papers, things, or property belonging to or in use by the bank and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents, and custodians.

(b) The expenses of any audit performed under this section shall be borne out of appropriations to the General Accounting Office, and appropriations in such sums as may be necessary are authorized. The bank shall reimburse the General Accounting Office for the full cost of such audit as billed therefor by the Comptroller General, and the General Accounting Office shall deposit the sums so reimbursed into the Treasury as miscellaneous receipts.

(c) A report of each such audit for a fiscal year shall be made by the Comptroller General to the President and to the Congress not later than six months following the close of such fiscal year. The report shall set forth the scope of the audit and shall include a statement (showing intercorporate relations) of assets and liabilities, capital, and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep the Congress informed of the operations and financial condition of the bank, together with such recommendations with respect thereto as the Comptroller General may deem advisable, including a report of any impairment of capital or lack of sufficient capital noted in the audit. A copy of each report shall be furnished to the Secretary of Housing and Urban Development, to the Secretary of the Treasury, and to the bank.

TAX EXEMPTION

SEC. 611. The bank, its property, its franchise, capital, reserves, surplus, security holdings, and other funds and its income, shall be exempt from all taxation now or hereafter imposed by the United States or by any State or local taxing authority; except that (1) any real property and any tangible personal property of the bank shall be subject to Federal, State, and local taxation to the same extent according to its value as other such property is taxed, and (2) any and all obligations issued by the bank shall be subjected both as to principal and interest to Federal, State, and local taxation to the same extent as the obligations of private corporations are taxed.

OBLIGATIONS AS LAWFUL INVESTMENTS, ACCEPTANCE AS SECURITY

SEC. 612. All obligations issued by the bank shall be lawful investments (and may be accepted as security) for all fiduciary, trust, and public funds the investment or deposit of which is under the authority or control of the United States or of any officer or officers thereof. All stock and obligations issued by the bank pursuant to this title shall be deemed to be exempt securities within the meaning of laws administered by the Securities and Exchange Commission, to the same extent as securities which are direct obligations of or obligations guaranteed as to principal or interest by the United States.

PREPARATION OF OBLIGATIONS

SEC. 613. In order to furnish obligations for delivery by the bank, the Secretary of the Treasury is authorized to prepare such obligations in such form as the board of directors may approve, such obligations when prepared to be held in the Treasury subject to delivery upon order by the bank. The engraved plates, dies, bed pieces, and so forth executed in connection therewith shall remain in the custody of the Secretary of the Treasury. The bank shall reimburse the Secretary of the Treasury for any expenditures made in the preparation, custody, and delivery of such obligations.

ANNUAL REPORT

SEC. 614. The bank shall, as soon as practicable after the end of each fiscal year, transmit to the President and the Congress an annual report of its operations and activities.

AMENDMENTS RELATING TO FINANCIAL INSTITUTIONS

SEC. 615. (a) The sixth sentence of the seventh paragraph of section 5136 of the Revised Statutes, as amended (12 U.S.C. 24), is amended by inserting "or obligations of the National Development Bank," immediately after "or obligations, participations, or other instruments of or issued by the Federal National Mortgage Association or the Government National Mortgage Association,".

(b) Section 5200 of the Revised Statutes, as amended (12 U.S.C. 84), is amended by adding at the end thereof the following new paragraph:

"(14) Obligations of the National Development Bank shall not be subject to any limitation based upon such capital and surplus."

(c) The first paragraph of section 5(c) of the Home Owners' Loan Act of 1933, as amended, 12 U.S.C. 1464(c)), is amended by inserting "or in obligations of the National Development Bank," in the second proviso immediately after "any political subdivision thereof;".

(d) Paragraph (2) of section 14(b) of the Federal Reserve Act, as amended (12 U.S.C. 355), is further amended by inserting ", or any obligation of the National Development Bank" immediately before the period at the end thereof.

DEFINITIONS

SEC. 616. As used in this title—

(1) the term "bank" means the National Development Bank created by section 602 of this Act;

(2) the term "State" means the States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory of possession of the United States;

(3) the term "local government" means any county, municipality, or other political subdivision of a State, or any agency or instrumentality thereof, or any school or other special district created by or pursuant to state law; and

(4) the term "obligation" means any bond, note, debenture, or other instrument evidencing debt.

AUTHORIZATION FOR APPROPRIATIONS

SEC. 617. There are authorized to be appropriated without fiscal year limitation, such sums as may be necessary to carry out the purposes of this title.

TITLE VII—COMMUNITY DEVELOPMENT BLOCK GRANTS

PURPOSE

SEC. 701. It is the purpose of this title to further the development of a National Growth Policy by consolidating a number of complex and overlapping programs of financial assistance to communities of varying sizes and needs into a single, consistent system of Federal aid which—

(1) is funded in advance on a regular basis upon which communities can rely in their planning;

(2) can provide assistance on an annual basis with maximum certainty and efficiency and minimum delay;

(3) encourages community development activities which are consistent with comprehensive local and area-wide development planning; and

(4) furthers achievement of the national housing goal of a decent home and a suitable living environment for every American family.

DEFINITIONS

SEC. 702. (a) As used in this title—

(1) The term "unit of general local government" means any city, municipality, county, town, township, parish, village, or other general purpose political subdivision of a State, and the District of Columbia.

(2) The term "metropolitan area" means a standard metropolitan statistical area, as established by the Office of Management and Budget, subject, however, to such modifications or extensions as the Secretary deems to be appropriate for purposes of this title.

(3) The term "metropolitan city" means (A) a city within a metropolitan area which

is the central city of such area, as defined and used by the Office of Management and Budget, (B) any other city, within a metropolitan area, which has a population of fifty thousand or more, or (C) a combination of two or more units of general local government within a metropolitan area, recognized by the Secretary for purposes of this title and having a population of fifty thousand or more.

(4) The term "population", with respect to any area or unit, means the total resident population of such area or unit based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(5) The term "amount of poverty" means the number of persons (or, alternatively, the number of families and unrelated individuals) whose incomes are below the poverty level multiplied by two. Poverty levels shall be determined by the Secretary pursuant to criteria provided by the Office of Management and Budget, taking into account and making appropriate adjustments for regional variations in income and cost of living, and shall be based on data referable to the same point or period in time.

(6) The term "amount of overcrowding" means the number of housing units with 1.01 or more persons per room based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(7) The term "extent of housing deficiencies" means the number of housing units lacking some or all plumbing facilities based on data compiled by the United States Bureau of the Census and referable to the same point or period in time.

(8) The term "Federal grant-in-aid program" means a program of Federal financial assistance other than loans and other than the assistance provided by this title.

(9) The term "Secretary" means the Secretary of Housing and Urban Development.

(b) Where appropriate, the definitions in subsection (a) shall be based on the most recent data compiled by the United States Bureau of the Census and the latest published reports of the Office of Management and Budget on the date of the enactment of this Act (with respect to the fiscal year in which this Act is enacted), and ninety days prior to the beginning of each subsequent fiscal year. The Secretary may by regulation change or otherwise modify the definitions in subsection (a) in order to reflect any change or modification thereof made subsequent to such date by the United States Bureau of the Census or the Office of Management and Budget.

AUTHORIZATION OF GRANTS

SEC. 703. The Secretary is authorized to make and contract to make annual grants to units of general local government to help finance Community Development Programs approved in accordance with the provisions of this title. The amount of any such grant shall not exceed 90 per centum of the Secretary's estimate of the annual cost of the approved Community Development Program with respect to which it is made.

ELIGIBLE-COMMUNITY DEVELOPMENT PROGRAMS

SEC. 704. (a) No grant may be made under this title unless the Secretary has determined that the applicant—

(1) has identified community needs and specified both short- and long-term community development objectives which are consistent with national, regional, State, areawide, and local comprehensive development planning and growth policies;

(2) has formulated a program which includes activities designed to provide an adequate supply of standard housing, particularly for low- and moderate-income individuals and families who are employed in the community; and

(3) in the case of an applicant which is a metropolitan city—

(A) has established a realistic three-year schedule of program activities designating resources which can and will be made available locally toward meeting those community needs;

(B) has made satisfactory provision for the periodic reexamination of program methods and objectives as information becomes available on the social, economic, and environmental consequences of program activities; and

(C) has formulated a comprehensive program which includes activities designed to—

(i) eliminate or prevent slums, blight, and deterioration; and;

(ii) develop properly planned community facilities and public improvements, including the provisions of supporting health, social, and similar services.

COMMUNITY DEVELOPMENT PROGRAM ACTIVITIES ELIGIBLE FOR ASSISTANCE

SEC. 705. A Community Development Program assisted under this title may include—

(1) the acquisition of real property (including air rights, water rights, and other interests therein) which is (A) blighted, deteriorated, deteriorating, undeveloped, or inappropriately developed from the standpoint of sound community development and growth; (B) necessary for the preservation or restoration of historic sites, the beautification of urban land, the conservation of open spaces, natural resources, and scenic areas, the provision of recreational opportunities, or the guidance of urban development; (C) to be used for the provision of public works, facilities, and improvements eligible for assistance under this title; or (D) to be used for other public purposes;

(2) the acquisition, construction, reconstruction, or installation of public works, facilities, and site or other improvements, including water and sewer facilities, neighborhood facilities, historic properties, utilities, streets, street lights, foundations and platforms for air rights sites, pedestrian malls and walkways, parks, and playgrounds;

(3) code enforcement in deteriorated or deteriorating areas in which such enforcement, together with those public improvements to be provided, may be expected to arrest the decline of the area;

(4) clearance, demolition, removal, and rehabilitation of buildings and improvements (including financing of the rehabilitation of privately owned properties);

(5) payments to housing owners for losses of rental income incurred in holding for temporary periods housing units to be utilized for the relocations of individuals and families displaced by program activities;

(6) disposition (through sale, lease, donation, or otherwise) of any real property acquired pursuant to this title or its retention for public purposes;

(7) provision of health, social, and similar services where the Secretary deems it necessary to properly support other approved community development activities; and

(8) such other projects or activities assisted under a Federal grant-in-aid program as the Secretary approves as part of a community development program.

AUTHORIZATION OF APPROPRIATIONS AND ALLOCATION OF FUNDS

SEC. 706. (a) (1) To finance grants for allocation to metropolitan areas under subsection (b), the Secretary is authorized to incur obligations on behalf of the United States in the form of grant agreements or otherwise in amounts aggregating not to exceed $7,500,000,000. This amount shall become available for obligation on July 1, 1973, and shall remain available until obligated. There are authorized to be appropriated for liquidation of the obligations incurred under this paragraph not to exceed $2,000,000,000 prior to July 1, 1974, which amount may be increased to not to exceed an aggregate of $4,500,000,000 prior to July 1, 1975, and to not to exceed an aggregate of $7,500,000,000 thereafter. Sums appropriated under this paragraph shall remain available until expended. The Secretary shall report annually to the Congress with respect to outstanding grants or other contractual agreements executed pursuant to this paragraph.

(2) There are authorized to be appropriated for grants to States and to units of general local government outside metropolitan areas under subsection (c) not to exceed $500,000,000 for the fiscal year commencing July 1, 1973, not to exceed $500,000,000 for the fiscal year commencing July 1, 1974, and not to exceed $500,000,000 for the fiscal year commencing July 1, 1975. Any amounts appropriated under this paragraph shall remain available until expended and any amounts authorized for any fiscal year under this paragraph but not appropriated may be appropriated for any succeeding fiscal year commencing prior to July 1, 1976.

(b) (1) The amount available for obligation under subsection (a) (1) shall be allocated by the Secretary to all metropolitan areas as provided in this subsection.

(2) The Secretary shall allocate to each metropolitan area an amount which bears the same ratio to the total amount available for obligation for any fiscal year as the average of the ratios between—

(A) the population of that metropolitan area and the population of all metropolitan areas;

(B) the amount of poverty in that metropolitan area and the amount of poverty in all metropolitan areas; and

(C) the amount of overcrowding in that metropolitan area and the amount of overcrowding in all metropolitan areas.

(3) From the amount allocated to each metropolitan area, the Secretary shall distribute to each metropolitan city within that area an amount which bears the same ratio to the allocation for the metropolitan area as the average of the ratios between—

(A) the population of that metropolitan city and the population of the metropolitan area;

(B) the amount of poverty in that metropolitan city and the amount of poverty in the metropolitan area; and

(C) the amount of overcrowding in that metropolitan city and the amount of overcrowding in the metropolitan area.

(4) The remainder of the allocation to each metropolitan area shall be distributed by the Secretary to units of general local government within that metropolitan area, taking into consideration such factors as population, amount of poverty, amount of overcrowding, and other fiscal and social conditions prevailing in the metropolitan area. Until such time as a metropolitan city is eligible to receive funds and carry out activities as provided by this title or in the event that such a city refuses to accept such funds, the funds otherwise available for allocation to it under paragraph (2) shall be added to the funds available for distribution by the Secretary under this paragraph.

(c) The amounts appropriated pursuant to subsection (a) (2) shall be distributed by the Secretary to States and to units of general local government outside metropolitan areas, taking into consideration such factors as population, amount of poverty, amount of overcrowding, extent of housing deficiencies, and other social and fiscal conditions.

(d) All computations and determinations by the Secretary under this section shall be final and conclusive.

LABOR STANDARDS

SEC. 707. All laborers and mechanics employed by contractors or subcontractors in the performance of construction work financed in whole or in part with grants received under this title shall be paid wages at

rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended (40 U.S.C. 276a-276a-5): *Provided*, That this section shall apply to the construction of residential property only if such residential property is designed for residential use for eight or more families. The Secretary of Labor shall have, with respect to such labor standards, the authority and functions set forth in Reorganization Plan Numbered 14 of 1950 (15 F.R. 3176; 64 Stat. 1267) and section 2 of the Act of June 13, 1934, as amended (48 Stat. 948; 40 U.S.C. 276(c)).

MATCHING GRANTS

SEC. 703. Funds provided under this title may be used by a recipient to cover up to 90 per centum of the required non-Federal share of any Federal grant-in-aid program where assistance is being provided for community development activities approved by the Secretary.

EFFECTIVE DATE

SEC. 709. The provisions of this title shall be effective on July 1, 1973. After such effective date, no new grants or loans may be made pursuant to title I of the Housing Act of 1949, section 312 of the Housing Act of 1964, sections 702 and 703 of the Housing and Urban Development Act of 1965, or title VII of the Housing Act of 1961, except with respect to projects or programs for which funds have been committed on or before June 30, 1973.

TITLE VIII—AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1954 TO DETER CORPORATE FACILITY AND JOB RELOCATION INCONSISTENT WITH BALANCED NATIONAL GROWTH

SEC. 801. Section 48(a) of the Internal Revenue Code of 1954 (relating to definition of section 38 property) is amended by adding at the end thereof the following new paragraphs:

"(10) Requirement of net additions to employment in high unemployment areas.—The term 'section 38 property' does not include property—

"(A) the construction, reconstruction, or erection of which by the taxpayer commences after the date of the enactment of this paragraph, or

"(B) which is acquired pursuant to an order placed after such date,

unless the taxpayer establishes that the placement in service of the property will result in net additions to employment offered by the taxpayer in high unemployment areas. For purposes of this paragraph and paragraph (11), the term 'high unemployment area' means any State, standard metropolitan statistical area, or other geographical area designated by the Secretary of Labor to be 'a labor market' for purposes of title IV of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3161), in which the average unemployment rate exceeded 6 percent during the 12-month period preceding the taxable year.

"(11) Investment related to plant departure from high unemployment areas.—The term 'section 38 property' does not include property which qualifies under paragraph (10) if it is determined that—

"(A) the placement in service of the property is or will be made in connection with the closing of existing facilities, or their diminished use, and

"(B) that such closing or diminished use has reduced or will reduce employment offered by the taxpayer in high unemployment areas."

SEC. 802. Section 103(c) of the Internal Revenue Code of 1954 (relating to industrial development bonds) is amended by adding at the end thereof the following new paragraph:

"(8) Certain facilities related to plant departure from high unemployment areas.—Paragraph (6) shall not apply to any obligation if it is determined that—

"(A) the use of any facility financed in whole or part by such obligation is or will be made in connection with the closing of existing facilities or their diminished use, and

"(B) that such closing or diminished use has reduced or will reduce employment offered by the taxpayer in high unemployment areas (as defined in section 48(a)(10))."

SEC. 803. (a) Section 354 of the Internal Revenue Code of 1954 (relating to exchanges of stock and securities in certain reorganizations) is amended by adding at the end thereof the following new subsection:

"(d) Limitation.—Subsection (a) shall not apply to an exchange in pursuance of a plan of reorganization adopted after the date of enactment of this subsection, if the total fair market value of the assets of the corporations which are parties to the reorganization exceeds $10,000,000. For purposes of this subsection, the assets of a corporation include the total assets of any controlled group of corporations of which it is a component member (within the meaning of section 1563)."

(b) Section 355 of such Code (relating to distribution of stock and securities of a controlled corporation) is amended by adding at the end thereof the following new subsection:

"(c) LIMITATION.—Subsection (a) shall not apply to a distribution after the date of the enactment of this subsection, if, immediately prior to the distribution, the total fair market value of the assets of the distributing corporation (including stock and securities of the controlled corporation) exceeds $10,000,000. For purposes of this subsection, the assets of a corporation include the total assets of any controlled group of corporations of which it is a component member (within the meaning of section 1563)."

(c) Section 361 of such Code (relating to nonrecognition of gain or loss to corporations) is amended by adding at the end thereof the following new subsection:

"(c) LIMITATION.—Subsection (a) shall not apply to an exchange in pursuance of a plan of reorganization adopted after the date of the enactment of this subsection, if the total fair market value of the assets of the corporations which are parties to the reorganization exceeds $10,000,000. For purposes of this subsection, the assets of a corporation include the total assets of any controlled group of corporations of which it is a component member (within the meaning of section 1563)."

(d) Section 337 of such Code (relating to the nonrecognition of gain or loss in connection with certain liquidations) is amended by adding at the end of subsection (c) thereof the following new paragraph:

"(3) LIQUIDATION FOLLOWING SALES TO CERTAIN CORPORATIONS.—This sction shall not apply to any sale or exchange of assets if the total fair market value of the assets of the corporations which are parties to the sale or exchange exceeds $10,000,000. For purposes of this paragraph, the assets of a corporation include the total assets of any controlled group of corporations of which it is a component member (within the meaning of section 1563)."

SEC. 804. Section 453(b) of the Internal Revenue Code of 1954 (relating to use of installment method for certain sales) is amended by adding at the end thereof the following new paragraph:

"(4) CERTAIN SALES OF STOCK AND ASSETS OF CORPORATIONS.—Paragraph (1) shall not apply to a sale or other disposition of substantially all of the stock or properties of a corporation to another corporation if the total fair market value of the assets of the two corporations exceeds $10,000,000. For purposes of this paragraph, the assets of a corporation include the total assets of any controlled group of corporations of which it is a component member (within the meaning of section 1563)."

SEC. 805. (a) Section 368(a)(2) of the Internal Revenue Code of 1954 (relating to reorganizations) is amended by adding at the end thereof the following new subparagraph:

"(F) CERTAIN ACQUISITIONS OF SMALL BUSINESS CORPORATIONS.—In the case of an acquisition by an independent corporation of stock or properties of a small business corporation in pursuance of a plan of reorganization adopted after the date of the enactment of this subparagraph, paragraphs (1)(B) and (1)(C) shall apply if the independent corporation exchanges (in addition to voting stock) its securities or other obligations for the stock or properties of the small business corporation. For purposes of this subparagraph, the term 'small business corporation' has the meaning assigned to it by section 1371(a) (except that for this purpose, '100 shareholders' shall be substituted for '10 shareholders' in subsection 1371(a)(1)), and the term 'independent corporation' means a corporation which is not a component member of a controlled group of corporations (within the meaning of section 1563)".

(b) Section 354(a) of such Code (relating to exchanges of stock and securities in certain reorganizations) is amended by renumbering paragraph (3) as (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Certain reorganizations involving small business corporations.—In the case of an exchange described in section 368 (a) (2) (F), paragraph (2) shall not apply and, for purposes of this subpart, the term 'securities' includes any interest-bearing obligation".

SEC. 806. The amendments made by this title shall apply to taxable years ending after the date of the enactment of this Act.

TITLE IX—REQUIREMENTS WITH RESPECT TO THE LOCATION IMPACT OF FEDERAL FACILITIES, ACTIVITIES AND FEDERAL PROCUREMENT

LOCATION OF FEDERAL FACILITIES AND ACTIVITIES

SEC. 901. (a) All departments and agencies of the Federal Government shall include in every recommendation or report on proposals for legislation and other major Federal actions significantly affecting the growth of the United States, a detailed statement regarding—

(1) the population distribution impact of such proposed action as to—

(A) the necessary additional supportive human services required to support such action;

(B) the cost of such action;

(C) the time implementation of both the action and the supportive services;

(D) the economic and social cost effects on the population; and

(E) the positive and adverse effects on scale, services, environment, life style, employment opportunities, and on the general quality of life of the people affected by such action;

(2) alternatives to the proposed action; and

(3) any irreversible and irretrievable commitment of resources which would be involved in the proposed action should it be implemented.

(b) Each department or agency of the Federal Government shall, prior to the location of any new, or relocation of any existing, Federal facility or the initiation of any activity which will have any economic or environmental impact, to file a report with the Council with respect to—

(1) its consistency with balanced national growth policies;

(2) its regional and local environmental impact;

(3) its national, regional, and local economic impact;

(4) its general effect on balanced regional development; and

(5) the Federal capital and operating costs involved.

(c) The Council through its regional representative shall give prompt consideration to such reports, and may recommend disapproval of such facility or activity, and the reasons therefor, to the head of the department or agency submitting such report and to the Administrator of the General Services Administration. Any such recommendation shall also be submitted to the appropriate congressional committee. No such action shall go into effect until approved by the President.

(d) The Council shall promulgate such rules and regulations as it determines to be necessary for the effective implementation of section 901(b) of the Agricultural Act of 1970.

(e) The provisions of this section shall be effective on such date as is established in regulations prescribed by the Council for the purposes of this section.

FEDERAL PROCUREMENT POLICIES

SEC. 902. (a) The Council shall promulgate such regulations as are necessary to assure that in all procurement costing in excess of prescribed amounts by Federal departments and agencies, including the award of contracts for research or development, proper consideration is given to—

(1) balanced national growth and development policies;

(2) environmental impact;

(3) balanced regional development;

(4) Federal cost; and

(5) State and local economic impact.

Such regulations shall provide for the use of alternative sources in such procurement, if costs are not excessive, in order to promote the purposes of this Act, and shall establish criteria for determining all considerations for the purpose of this section. In applying the provisions of this section to the award of research and development contracts due consideration shall be given to the balanced national growth purpose to be served.

(b) Regulations pursuant to this section shall not be effective until proposals therefor have been submitted to the appropriate congressional committees, with an adequate time, not to exceed 90 days, for such committees to consider such proposals.

SECTION-BY-SECTION OUTLINE

SHORT TITLE: "NATIONAL GROWTH POLICY PLANNING ACT"

Findings

Sec. 1-2. Finds that there is an immediate national interest in an efficient and comprehensive system of national, regional, statewide, metropolitan area and local growth policy planning and decision making.

Policy

Sec. 3. Declares that the National Growth Policy should incorporate ecological, environmental, esthetic, economic, social, demographic and other appropriate factors.

Purpose

Sec. 4. Provides for 13 purposes of the Act.

Sec. 5. Effect on Existing Laws.

Sec. 6. Definitions.

Sec. 7. Authorization of Appropriations.

Title I—National Growth Policy Planning Council

Sec. 101. Establishes in the Executive Office of the President a National Growth Policy Planning Council of seven members.

Sec. 102. Authority.

Sec. 103. Functions of the Council.

Sec. 104. Administrative Provisions.

Sec. 105. Reports and Evaluations.

Sec. 106. Studies.

Sec. 107. Annual report on National Growth and Development.

Sec. 108. Evaluations by the Council of Economic Advisors, the Council on Environmental Quality, and the National Growth Policy Planning Council.

Sec. 109. Abolition of the Domestic Council

Sec. 110. Transfer of functions from Office of Management and Budget with respect to review of Federal projects and liaison with State and local governments.

Sec. 111. Transfer of comprehensive planing assistance programs to the Council.

Title II National Growth Policy Planning and Assistance through State and Metropolitan Planning Grants

Sec. 201. Grants-In-Aid

Sec. 202. Guidelines and Requirements for Growth Policy Plans

Sec. 203. Review of plans

Sec. 204. Coordination of Federal programs

Sec. 205. Grant formula

Sec. 206. Grant computation and payments

Sec. 207. Financial records

Sec. 208. Termination of Assistance

Sec. 209. Sanctions and Noncompliance

Title III Report on Consolidation of Federal Comprehensive Planning Activities and Planning Assistance Programs

Sec. 301. See above

Title VI Regional Growth Planning and Development Commissions

Sec. 401. Declaration of Findings and Purpose

Sec. 402. Determination of Regional Boundaries

Sec. 403. Establishment of Regional Growth Planning and Development Commission

Sec. 404. Functions

Sec 405. Administrative powers

Sec. 406. Appropriations authorizations

Title V State and Metropolitan Area Development Agencies

Sec. 501. Declaration of Purpose

Sec. 502. Eligible Development Agencies

Sec. 503. Guarantees of obligations

Sec. 504. Limitation of Guarantees

Sec. 505. Revolving fund

Sec. 506. Grants

Sec. 507. Technical Assistance

Sec. 508. Labor standards

Sec. 509. General provisions

Title VI National Development Bank

Sec. 601. Findings and Declaration of Purpose

Sec. 602. Creation of Bank

Sec. 603. Board of Directors

Sec. 604. Initial expenses

Sec. 605. Purposes

Sec. 606. Obligations of the Bank

Sec. 607. Federal payment to the Bank

Sec. 608. General powers

Sec. 609. Technical assistance

Sec. 610. Audit of financial transactions

Sec. 611. Tax exemption

Sec. 612. Obligations as lawful investments acceptance as security

Sec. 613. Preparation of obligation

Sec. 614. Annual report

Sec. 615. Amendments relative to financial institutions

Sec. 616. Definitions

Sec. 617. Authorization for appropriations

Title VII. Community Development

Sec. 701. Purpose

Sec. 702. Definitions

Sec. 703. Authorization of grants

Sec. 704. Eligible Community Development Programs

Sec. 705. Community development program activities eligible for assistance

Sec. 706. Authorization of appropriations and allocation of funds

Sec. 707. Labor standards

Sec. 708. Matching grants

Sec. 709. Effective date

Title VIII—Amendments to the Internal Revenue Code of 1954 to Deter Corporate Facility and Job Relocation Inconsistent with Balanced National Growth

Sec. 801. Amends section 48 (a) of the Internal Revenue Code

Sec. 802. Amends section 103(c) of the Internal Revenue Code

Sec. 803. Amends sections 354, 355, 361 and 337 of the Internal Revenue Code

Sec. 804. Amends section 453 (b) of the Internal Revenue Code

Sec. 805. Amends sections 368 (a)(2) and 354 of the Internal Revenue Code

Title IX—Requirements With Respect to the Location Impact of Federal Facilities, Activities and Federal Procurement

Sec. 901. Location of Federal facilities and activities

Sec. 902. Federal Procurement policies

By Mr. KENNEDY:

S. 1287. A bill to extend diplomatic privileges and immunities to the Liaison Office of the People's Republic of China and to members thereof, and for other purposes. Referred to the Committee on Foreign Relations.

DIPLOMATIC IMMUNITY FOR REPRESENTATIVES OF THE PEOPLE'S REPUBLIC OF CHINA

Mr. KENNEDY. Mr. President, I introduce for appropriate reference a bill to confer diplomatic immunity and other privileges on representatives of the People's Republic of China.

The purpose of this legislation is to pave the way for the establishment of the Liaison Office of the People's Republic of China, to be set up in Washington in the near future, in accord with the recent joint communique of our two nations announcing the establishment of such offices.

The communique was a dramatic and historic new step forward on the road to the restoration of full diplomatic relations between the United States and the People's Republic. Indeed, the establishment of the two reciprocal liaison offices—one in Peking, the other in Washington—was a unique development in American policy toward China, a breakthrough that was widely hailed as creating full diplomatic relations in all but name. As such, it was an imaginative innovation that enabled both nations to launch a new era of continuing formal relations, without compromising either nation's position on the status of Taiwan.

As I indicated at the time the joint communique was issued on February 22, I believe President Nixon and Dr. Kissinger and their Chinese counterparts deserve great credit for negotiating this new step. But I also believe we should embrace the occasion to insure that these special liaison offices blossom into full-fledged American and Chinese embassies at the earliest possible opportunity.

To this end, the bill that I introduce today specifically anticipates the day when full diplomatic relations will be achieved between the United States and the People's Republic of China. The bill accomplishes this purpose by providing diplomatic privileges and immunities not only for the members of the liaison office of the People's Republic of China,

but also for any such liaison office that may be established in the future by the authorities on Taiwan. In other words, just as the liaison office is now an imaginative concept to establish relations with the People's Republic, so it also offers an approach enabling us to continue relations with Taiwan after ambassadorial relations are established with the People's Republic of China.

Thus, although the primary purpose of the bill is to lay the groundwork for the immediate establishment of the liaison office of the People's Republic, it also looks to the future, by setting the direction in which our policy should continue to be moving. As such, it confirms the extraordinarily successful developments we have witnessed in our China policy over the past 2 years, and for which President Nixon and Dr. Kissinger have been so deservedly praised.

Mr. President, I ask unanimous consent that the text of the bill be printed in the RECORD, as well as the text of the joint communique with China, and the transcript of Dr. Henry Kissinger's news conference on the communique.

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

S. 1287

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, under such terms and conditions as he shall determine and consonant with the purposes of this Act, the President is authorized to extend, or to enter into an agreement extending to the Liaison Office to be established in the United States of America by the People's Republic of China, and to members thereof, and to any future Liaison Office that may be established in the United States of America by the authorities on Taiwan, and to members thereof, the same privileges and immunities subject to corresponding conditions and obligations as are enjoyed by diplomatic missions accredited to the United States and by members thereof.

[From Presidential Documents, Richard Nixon, 1973, pp. 169–175]

DR. KISSINGER'S MEETINGS IN PEKING

U.S.-People's Republic of China Communiqué Following Dr. Henry A. Kissinger's Meetings With Chinese Leaders. February 22, 1973.

Dr. Henry A. Kissinger, Assistant to the U.S. President for National Security Affairs, visited the People's Republic of China from February 15 to February 19, 1973. He was accompanied by Herbert G. Klein, Alfred Le S. Jenkins, Richard T. Kennedy, John H. Holdridge, Winston Lord, Jonathan T. Howe, Richard Solomon, and Peter W. Rodman.

Chairman Mao Tsetung received Dr. Kissinger. Dr. Kissinger and members of his party held wide-ranging conversations with Premier Chou En-lai, Foreign Minister Chi Peng-fei, Vice Foreign Minister Chiao Kuan-hua, and other Chinese officials. Mr. Jenkins held parallel talks on technical subjects with Assistant Foreign Minister Chang Wen-chin. All these talks were conducted in an unconstrained atmosphere and were earnest, frank and constructive.

The two sides reviewed the development of relations between the two countries in the year that has passed since President Nixon's visit to the People's Republic of China and other issues of mutual concern. They reaffirmed the principles of the Joint Communique issued at Shanghai in February 1972 and their joint commitment to bring about a normalization of relations. They held that the progress that has been made during this period is beneficial to the people of their two countries.

The two sides agreed that the time was appropriate for accelerating the normalization of relations. To this end, they undertook to broaden their contacts in all fields. They agreed on a concrete program of expanding trade as well as scientific, cultural and other exchanges.

To facilitate this process and to improve communications it was agreed that in the near future each side will establish a liaison office in the capital of the other. Details will be worked out through existing channels.

The two sides agreed that normalization of relations between the United States and the People's Republic of China will contribute to the relaxation of tension in Asia and in the world.

Dr. Kissinger and his party expressed their deep appreciation for the warm hospitality extended to them.

(NOTE.—The communique was issued simultaneously in Washington and Peking.)

For Dr. Kissinger's news conference on his meetings with Chinese leaders, see the following item.

DR. KISSINGER'S MEETING IN HANOI AND PEKING

News Conference of Dr. Henry A. Kissinger, Assistant to the President for National Security Affairs. February 22, 1973.

Mr. ZIEGLER. You have had a chance to read the communiqué. As Jerry mentioned to you, it is embargoed for transmission until 11 o'clock, eastern standard time.

Dr. Kissinger left on the 7th of this month, and he has visited Thailand, Laos, the DRV, and the PRC, and Japan, and returned to the United States on the 20th of this month and is here to talk about his travels and to take some of your questions. He is on the record, of course.

Dr. KISSINGER. I noticed that Ron has begun to speak with a German accent. [Laughter]

MEETINGS IN PEKING

Ladies and gentlemen, I thought I would begin by making some remarks about my trip to the People's Republic of China, then take some questions on that, including the communiqué, and then perhaps make a few additional comments to the briefing that Ron has already given you on the Hanoi communique.

To put this communiqué [1] into perspective and to elaborate on it for a bit, one should review the evolution of our China policy. When we first began our contacts with the People's Republic of China in 1969 through third parties, and in 1971 directly, the United States had not had any contact with the People's Republic in nearly 20 years, that is, no contact on a really substantial level.

Our early conversations were concerned primarily with building confidence, with explaining each other's position, with establishing channels of communication. Last year our achievements consisted of setting out direaction and indicating the roads that might be traveled. After the end of the war in Vietnam, and in these discussions in Peking, we were able to begin to travel some of these roads and to move from the attempt to eliminate the obstructions and the mistrust to some more concrete and positive achievements.

What happened in these meetings was really a continuation of possibilities that had been outlined during the President's visit and during the conversations between the President and Chairman Mao and Prime Minister Chou En-lai, except that now they took some more concrete form. As the communiqué points out, we reviewed the progress in Sino-American relations in great detail, and we reviewed the international situation in great detail.

We discussed the principles of the Shanghai communique,[2] particularly those that dealt with the desirability of normalization of relations, the desirability of reducing the danger of military conflict, the affirmation by both sides that neither would seek hegemony in the Pacific area, and each of them opposed the attempt of anyone else to achieve it, and that the relations between China and the United States would never be directed against any third country.

In that spirit, it was decided to accelerate the normalization of relations, to broaden contacts in all fields, and an initial concrete program for extending these contacts was developed.

Given this new range of contacts, it was decided that the existing channel in Paris was inadequate and that, therefore, each side would establish a liaison office in the capital of the other. This liaison office would handle trade as well as all other matters, except the strictly formal diplomatic aspects of the relationship, but it would cover the whole gamut of relationships. This liaison office will be established in the nearest future. Both sides will make proposals within the next few weeks to the other about their technical requirements, and henceforth it will be possible for the United States and the People's Republic of China to deal with each other in the capital of the other.

Now, in order to give some concrete expression to this desire for the normalization of relationships, it was agreed that a number of steps be taken.

First of all, the Chinese, as a sign of good will, have informed us that they would release, within the same time period as our withdrawal from Vietnam, the two military prisoners that they hold in China, Lieutenant Commander (Robert J.) Flynn and Major Philip (E.) Smith. They have been held in China since 1967 and 1965, respectively. They will be released within the next few weeks.

Prime Minister Chou En-lai also asked me to inform the President that the Chinese penal code provided for the periodic review of the sentences of prisoners and that this provision would be applied in the case of John Downey.

The Chinese penal code provides for commutation of sentences on the basis of good behavior. We have been told that the behavior of Mr. Downey has been exemplary and that his case would be reviewed in the second half of this year.

With respect to outstanding issues that have been discussed in other channels, it was agreed that the linked issue of United States private claims against the People's Republic of China and PRC blocked assets in the United States would be negotiated on a global basis in the immediate future. Discussions will begin on this subject between Secretary of State Rogers and the Chinese Foreign Minister next week when both are attending the International Conference on Vietnam in Paris, and we expect these negotiations to be concluded rapidly and in a comprehensive way, and we are certain that both sides are approaching them in a constructive spirit and in an attitude consistent with our intention to accelerate the improvement of our relations.

With respect to increased exchanges between the two countries, the Chinese have agreed to invite, during this year, the Philadelphia Symphony by the fall of 1973, a medical group during the spring, a scientific group during the summer, a group of elementary and high school teachers, again during the summer, and increased visits by

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[1] See the preceding item.

[2] For the text of the communique issued at Shanghai on February 27, 1972, see page 473 of Volume 8 of the Weekly Compilation of Presidential Documents.

Congressmen and Senators, as well as athletic teams, an amateur basketball team, and swimming and diving teams.

The People's Republic has agreed to send to the United States the achaeological exhibit from the Forbidden City, which will probably come here in 1974, a group of water conservation experts, insect hormone specialists, high energy physicists, and a gymnastic team.

When the liaison offices are established, possibility will exist for developing further contacts and accelerating this entire process.

The major point we want to make is this: Our contacts with the People's Republic of China have moved from hostility towards normalization. We both believe that it is essential for the peace of the world that the United States and the People's Republic of China act with a sense of responsibility in world affairs that we are part of an international community in which all nations have a stake in preserving the peace, and that, therefore, as the Shanghai communique has already said and as was reaffirmed once again, the normalization of relations between the United States and the People's Republic is not directed against any other nation, but is part of a pattern that the President has pursued of building a structure of peace in which all nations can participate and in which all nations have a stake.

It remains for me only to say that we were received with extraordinary courtesy and that the discussions were conducted in what was always described as an unconstrained atmosphere.

Now I will take your questions on China and after that a few comments on North Vietnam.

U.S. TROOPS ON TAIWAN

Q. Dr. Kissinger, did you come to any agreement with regard to Taiwan and U.S. troops there?

Dr. KISSINGER. Inevitably the issue of Taiwan is one in which the People's Republic and we do not have the same perspective. The leaders of the People's Republic stated their view and we expressed our general commitments.

We, of course, continue to maintain diplomatic relations with Taiwan. The level of our troops on Taiwan is not the subject of negotiations, but will be governed by the general considerations of the Nixon Doctrine with respect to danger in the area. There exists no immediate plan for any withdrawal, but there will be a periodic review.

LIAISON OFFICES

Q. Doctor, what will be the rank of the liaison office heads? Will they be ambassadors?

Dr. KISSINGER. Mr. Lisagor has addressed me by my academic title, which is very impressive to me.

The formal title of the head of the liaison office will be Chief of the Liaison Office. [*Laughter*] And we are not giving any formal diplomatic rank on either side. As soon as the person is selected, which should be within a month, I think his stature will then determine it, but there will be no formal title other than the one I have given.

Q. To what do you attribute the Chinese decision to send a permanent representative here in view of their previous refusal to have a permanent person any place where Taiwan is recognized?

Dr. KISSINGER. The liaison office is, of course, not a formal diplomatic office, but I don't want to speculate on the motive for the Chinese decision.

Our policy had always been clear from our first contact. Certainly from the time that the President visited the People's Republic, he pointed out to Prime Minister Chou En-lai the types of American representation that would be available for establishment in Peking, which ranged from trade missions through various other possibilities to the idea of a liaison office.

Why the Chinese leaders have decided at this particular moment to accept this and to establish an office of their own in Washington, I would not want to speculate on, except that it is certainly consistent with speeding up the process of normalization.

Q. Was there any restriction or understanding on the size of the respective delegations?

Dr. KISSINGER. No, but we expect it to be of moderate size at the beginning.

EXCHANGE OF JOURNALISTS

Q. Dr. Kissinger, how about the exchange of journalists and opening of permanent bureaus in both countries?

Dr. KISSINGER. This is one of the topics that will be discussed through the existing channel and then through the liaison office. The Chinese side has indicated that it would be willing to send some journalists over here and it is, of course, clearly understood that we want to increase our journalistic contacts in the People's Republic.

I think there is some understanding in principle with respect to that the details of which have to be worked out.

TRADE PROGRAM

Q. What is the concrete program of expanding trade that the communique refers to?

Dr. KISSINGER. To begin with, there is already a reasonable amount of trade, much larger than any projection had foreseen 2 years ago. The initial step in a further expansion has to be the discussion of the two issues that I have mentioned, namely the blocked assets and the private claims. When these two issues are resolved, which we expect to be fairly soon, then further steps can be taken.

Up to now, the trade has been essentially in private channels on the United States side and has proceeded more rapidly than anybody projected 2 or 3 years ago.

FUTURE REPRESENTATION

Q. Dr. Kissinger, do you see the liaison office as something, as far as you can go, in terms of permanent representation, short of diplomatic relations, or do you see something further down the road?

Dr. KISSINGER. We have no further steps in mind. This is as far as we can go for the moment.

MILITARY EQUIPMENT TO INDOCHINA

Q. Dr. Kissinger, did you have a chance to discuss with the Chinese leaders the possibility of mutual restraint in sending military equipment to Vietnam?

Dr. KISSINGER. Our view on the question of military equipment to Indochina is clear and we have made clear to all the countries with which we have talked the importance of tranquility in Indochina to the peace of the world, and Indochina was one of the subjects that was discussed in Peking.

MEETING WITH CHAIRMAN MAO

Q. Dr. Kissinger, could you tell us something of the nature and the detail of your discussions with Chairman Mao?

Dr. KISSINGER. I am debating whether to spend 10 minutes saying "No," or just to say "No." [*Laughter.*]

I will say one or two general things. One, I obviously cannot go into the details of the discussion. The atmosphere was cordial. Chairman Mao was in apparently good health and spoke with great animation for about 2 hours, and conveyed an extended personal message to the President, as the Chinese announcement made clear.

VISITS BY CHINESE OFFICIALS

Q. Dr. Kissinger, was there any discussion of a visit here by Chou En-lai or any other senior Chinese representative in the future?

Dr. KISSINGER. There was no discussion of this.

SECRET AGREEMENTS

Q. Were there any secret agreements made, in view of the fact you are not discussing the Mao conversations?

Dr. KISSINGER. No, the essential nature of what was discussed is contained in the communique and in my explanations. There were no secret agreements.

PROSPECTS FOR PEACE IN CAMBODIA

Q. Dr. Kissinger, was there a discussion of Prince Sihanouk and peace in Cambodia?

DR. KISSINGER. I do not want to go into any of the details, but the Indochina situation was discussed.

FLOW OF ARMS INTO INDOCHINA

Q. How do you assess the possibility of some kind of mutual arrangement with the Chinese to cut off the flow of arms into Indochina?

DR. KISSINGER. The problem isn't whether any formal arrangements can be made or should be made. The problem is whether the major countries now recognize that the agreement in Vietnam gives everybody an opportunity to return that area for the first time in a generation to a period of tranquility and to permit the peoples of Indochina an opportunity to work out their own fate without force and without outside pressure. And, if this is understood by all the major countries, then they can draw their own conclusions and act on the basis of their own considerations, rather than to attempt to codify this in a formal agreement.

Q. To follow that up, do you think that the Chinese do, then, understand this as we do?

DR. KISSINGER. I don't want to speculate on the Chinese intentions, but I have the impression that the participants in this conference next week all have to recognize an obligation to make whatever contribution they can to peace in Indochina.

PRIVATE CLAIMS AND BLOCKED ASSETS

Q. Could you give us an idea of the amounts of the private claims and blocked assets?

DR. KISSINGER. The private claims are in the neighborhood of $250 million. The blocked assets are in the neighborhood of $78 million. But this may vary slightly because we are not sure that we know either all the claims or all the blocked assets. But it is roughly correct.

REVIEW OF WORLD SITUATION

Q. Dr. Kissinger, in your conversations in Peking, did you exchange views on other parts of the world, say, like the Middle East?

DR. KISSINGER. There was a general review of the world situation.

Q. Dr. Kissinger, could we go on to the Hanoi matter?

DR. KISSINGER. I will take two more questions on China and then we will go on to Hanoi.

TRADE INTERESTS

Q. Did the Chinese, at the working level, indicate any specific interest in either what they wanted to buy from the United States or what they thought they would sell to the United States?

DR. KISSINGER. I would be the most unlikely subject for such a conversation, because I couldn't respond in any intelligible way. But we will set up procedures for them to express such an interest to more qualified personnel.

RELEASE OF COMMUNIQUÉ

Q. Dr. Kissinger, why was the communiqué release delayed this long if it was worked out when you were in Peking? Why was it delayed until now?

DR. KISSINGER. To enable me to get back to the United States, to give us an opportunity to inform some other countries, and to proceed in an orderly, diplomatic manner.

DIPLOMATIC PRIVILEGES FOR LIAISON OFFICE PERSONNEL

Q. Can we clear up whether the people in the liaison offices will have diplomatic privileges or not?

Dr. KISSINGER. The people in the liaison offices will have diplomatic privileges and will have opportunity to communicate with their own governments by code.

CHINESE MOVEMENT IN THE UNITED STATES

Q. Will the Chinese be allowed freedom of movement in the United States?

Dr. KISSINGER. All of this will be worked out.

MEETINGS IN HANOI

Q. Dr. Kissinger, on the Hanoi communiqué,[3] were any specific aid figures discussed with the North Vietnamese?

Dr. KISSINGER. Let me make a general comment about the visit to North Vietnam.

A great deal of the comment that I have seen since my return, and also while I was traveling, concerned the Economic Commission and the economic aid that is under discussion. Now, let me try to put this into perspective. Ron has already covered the details of the communiqué in his briefing. I can add very little to that.

The basic purpose of my visit to Hanoi was not to work out an economic aid program. The basic purpose of my visit to Hanoi was to establish contact with the leadership of the Democratic Republic of Vietnam in order to see whether it would be possible to establish with it in Indochina something like the relationship that we have managed to establish with the People's Republic of China in Asia in general.

You have to consider that the leaders of the Democratic Republic of Vietnam have spent almost all of their lives either in prison or conducting guerrilla wars or conducting international wars. At no time in their lives have they had an opportunity to participate in a normal diplomatic relationship with other countries, or to concentrate on the peaceful evolution of their country and of their region.

Now, for whatever reason, they have indicated some interest in at least exploring the possibility of a more constructive relationship and of a more peaceful evolution. The greater part of my time in Hanoi was spent on discussing the implementation of the agreement, what forms normalization of relations might take.

ECONOMIC AID

You should look at the economic aid program not in terms of a handout, and not in terms of a program even of reconstruction alone, but as an attempt to enable the leaders of North Vietnam to work together with other countries, and particularly with Western countries, in a more constructive relationship, and to provide in this manner an incentive towards a more peaceful evolution.

The Economic Commission will be the first opportunity that the leaders of the Democratic Republic of Vietnam have had to discuss something other than armistices or military arrangements with responsible Americans and, therefore, the visit was part of an attempt to move from hostility towards normalization, and we are asking for support for the idea of such a program not on economic grounds and not even on humanitarian grounds primarily, but on the grounds of attempting to build peace in Indochina and, therefore, to contribute to peace in the world.

Now, that means that the precise figures were not the principal issue at this particular moment.

[3] For the text of the U.S.-Democratic Republic of Vietnam joint communiqué issued following Dr. Kissinger's meetings in Hanoi, see page 141 of this volume of the Weekly Compilation of Presidential Documents.

Are there any other questions?

JAPAN

Q. Doctor, in relation with Japan, two points: One point is, what do you understand about Japan in context with America or China or Southeast Asia? This is one point.

The second point is, what was the main subject of your discussion with the Japanese leaders?

DR. KISSINGER. Now, first of all, we have always believed that the friendship with Japan is an integral part of our foreign policy. We are convinced that we can normalize our relations with the People's Republic of China without in any way impairing the close relationship that exists between the United States and Japan, and I might add that we were under no pressure whatever from the Peoples Republic of China to loosen our friendly ties with Japan.

Secondly, with respect to Japan's role in Southeast Asia, I read with interest and occasionally astonishment, the speculations in the Japanese press about the complicated motivation that may agitate us.

As far as the United States is concerned, we welcome a responsible role by Japan in Southeast Asia. We have no objection whatever to any Japanese assistance program to the Democratic Republic of Vietanm or to any other country of Indochina. Indeed, we believe that this would be a natural exercise of Japan's sense of responsibility for stability in Asia.

In no way do we consider ourselves competitors with Japan for the privilege of extending economic aid to any country of Southeast Asia.

What did I discuss with the leaders of Japan? Three days after leaving Tokyo there can be almost nothing left to reveal that is not already in the Japanese press. [Laughter] I will only say that we briefed our Japanese allies in some detail about the discussions that I had had in the various capitals, and we had avery useful and very fruitful talks.

Q. Do the Japanese have a more open press policy than the United States?

Dr. Kissinger. I don't want to make any comparisons, but they have a very open press policy. [Laughter.]

Q. Why wasn't Japan invited to participate in the international guaranteeing conference?

Dr. KISSINGER. The participants in the international guaranteeing conference were selected by agreement among the parties that negotiated the agreement. We had no objection to the participation of Japan, but we could not achieve unanimity about its membership in the conference.

THE MIDDLE EAST

Q. Dr. Kissinger, I wonder if you could comment on the Middle East situation, particularly after the incident in the Sinai and prior to the visit here of Mr. Ismail.

Dr. KISSINGER. I have been so concentrated, in the last few weeks, on Asian affairs, that I want to confine this briefing to my trip.

RECONSTRUCTION AID TO NORTH VIETNAM

Q. What is the nature of the commitment to North Vietnam to provide some kind of reconstruction aid? Is there a very firm commitment? Are they aware they may get nothing?

Dr. KISSINGER. They are aware of our constitutional processes, although they have little experience with our legislative machinery. But the Economic Commission will study the problem. We will then make recommendations. And it is obvious that the fate of whatever recommendations we make depends on a decision by Congress, and we have made every effort to explain the nature of our constitutional system.

Q. On that same point, was the aid commitment a condition of the cease-fire agreement? There has been a debate developing here on this point.

Dr. KISSINGER. No, it was always understood that the United States would not pay anything in the nature of repatriations. It was always understood that except for expressing a general willingness to participate, the nature of our participation would be determined after the signature of the agreement.

HANOI DISCUSSIONS ON EXCHANGES AND LAOS AND CAMBODIA

Q. A two-part question. You have not mentioned your discussions in Hanoi concerning journalistic, cultural, scientific, or additional exchanges. Will the Economic Commission have in any way a preliminary role comparable to the liaison office in Peking? And, secondly, could you tell us anything about your discussions in Hanoi concerning Laos and Cambodia and the prospect you see for the general completion of a peace agreement?

Dr. KISSINGER. First, with respect to whether the Economic Commission will be a general clearinghouse similar to the liaison office that was established with the People's Republic of China. Primarily the Economic Commission will be concerned with the issues that have been assigned to it, that is to say, to study the economic relationship including the reconstruction problem, but not confined to the reconstruction problem, and perhaps the exchange of technical experts relevant to that problem.

Secondly, we have established or further elaborated already existing means of contact between the Democratic Republic and the United States, and those will be used for these other issues similar to the way the Paris channel was used between the People's Republic of China and the United States in the period prior to the establishment of the liaison office. So one would have to say that the process of normalization vis-a-vis Hanoi is at about the stage it was vis-a-vis Peking a year ago.

Now, with respect to Laos and Cambodia. The United States has aways taken the position that Article 20(b) of the agreement provides for the withdrawal of foreign troops from both Laos and Cambodia, and, indeed, no other interpretation of that article is possible. We, therefore, have strongly favored—and we had extensive discussions on this trip—a final arrangement in Laos and a settlement in Cambodia.

There now has been an agreement in Laos which was negotiated not by us, but by the Prime Minister of the Royal Laotian Governmnt, Souvanna Phouma. This agreement essentially contains the practical provisions of the 1962 agreement with respect to political power and reflects the best judgment of the Royal Laotian Government about a free political evolution in their country. It provides for a cease-fire and for the withdrawal of North Vietnamese forces. This leaves only Cambodia still lacking a formal arrangement.

As I pointed out before, the situation in Cambodia is complicated by the fact that there are three or four different groups rather than one homogeneous opposition group to the government that we recognize in Phnom Penh.

We had extensive discussions at all our stops about this problem and we will work on a settlement in Cambodia with energy. We maintain that all foreign troops must be withdrawn from Cambodia.

THE ROLE OF AID TO HANOI

Q. How big a factor is the possibility of aid to Hanoi in persuading them not to break the cease-fire agreement?

Dr. KISSINGER. I would prefer not to put it on this basis. The big issue is not whether they will break the cease-fire agreement, because that obviously involves many consequences. The big problem is whether Indochina can be moved from a condition of

guerrilla war or even open warfare to a condition in which the energies of the peoples of that region are concentrated on constructive purposes.

If that objective can be achieved, if that process can start for a period of 3 to 4 years, then any decision to resume the conflict by any of the parties will have to be taken in an environment of peace and against an experience of the population in tasks with which they have become almost totally unfamiliar.

So this is not a kind of ransom which we are paying for a specific undertaking to maintain the peace, because there are other reasons why the Democratic Republic of Vietnam should want to maintain the peace. It is rather a long-term investment in a structure of peace and in turning people whose whole experience has been with conflict, with guerrilla war, with hostility towards the outside world, into pursuits with which they are essentially unfamiliar. And this is our interest in the program and why we are willing to explore a program of reconstruction for all of Indochina.

PRINCE SIHANOUK

Q. Did you see Prince Sihanouk?

Dr. KISSINGER. No.

REPORTER. Thank you, Dr. Kissinger.

(NOTE: Press Secretary Ronald L. Ziegler introduced Dr. Kissinger at 10:20 a.m. in the Briefing Room at the White House.)

By Mr. BROOKE:

S. 1293. A bill to create a National Historic Records Commission, to establish a program for preserving and making accessible documentary resources throughout the Nation, and for other purposes. Referred to the Committee on Government Operations.

NATIONAL HISTORIC RECORDS COMMISSION

Mr. BROOKE. Mr. President, I introduce for appropriate reference a bill to establish a National Historic Records Commission. The primary purpose of the Commission would be to develop and promote a broadly conceived national program for preserving and making accessible documentary resources throughout the Nation.

It is fitting that such a bill be introduced as we approach our Nation's bicentennial celebration. The spirit and direction of America are founded upon and reflected in its historic past. This act would enable all Americans to share in the knowledge of our glorious history. Passage of this bill would be a manifestation of our commitment to preserve our cultural heritage.

At present various organizations provide for the publishing of historic material that is known to exist. However, these agencies, both public and private, are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation. A Commission must be set up that also finds and preserves historical material as yet unknown to us.

The National Historic Records Act will enable the "Spirit of 76" to be passed on to our progeny. Historical works found and preserved by the Commission will be a constant reminder of America's great past and, hopefully, serve as a catalyst to even greater future.

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

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

S. 1293

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 Historic Records Act."

STATEMENT OF FINDINGS AND PURPOSE

The Congress finds that (a) the spirit and direction of the Nation are founded upon and reflected in its historic past;

(b) the historical and cultural foundations of the Nation should be preseved as a living part of our community life and development in order to give a sense of orientation to the American people;

(c) the present governmental and nongovernmental documentary preservation programs and activities are inadequate to insure future generations a genuine opportunity to appreciate and enjoy the rich heritage of our Nation; and

(d) Although the major burdens of documentary preservation have been borne and major efforts initiated by private agencies and institutions, and both should continue to play a vital role, it is nevertheless necessary and appropriate for the Federal Government to accelerate its documentary preservation programs and activities, (1) to give maximum encouragement to agencies and institutions undertaking preservation by private means, (2) to encourage, in cooperation with appropriate public and private agencies and institutions, training and instruction in the field of documetary preservation, and (3) to assist State and local governments to expand and accelerate their documentary preservation programs and activities.

TITLE I

SEC. 101. (a) There is hereby established in the executive branch of the Government a National Historic Records Commission (hereinafter referred to as the "Commission") to develop and promote a broadly conceived national program for preserving and making accessible documentary resources throughout the Nation.

(b) As used in this Act—

(1) The term "State" includes, in addition to the several States of the Union, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and American Samoa.

(2) The term "project" means programs of State and local governments and private organizations to assure the preservation and accessibility for public benefit of any such documentary resources.

(3) The term "documentary" refers to unpublished record material regardless of physical form or characteristic. It includes, but is not limited to, historical manuscripts, personal papers, official records, maps, and audiovisual materials.

(4) The term "preservation" includes, but is not limited to, acquiring, accessioning, arranging, describing, processing, repairing, rehabilitating, exhibiting, publishing and/or other means of protecting or making accessible documentary resources in order to reserve their present or future use.

(c) The Commission shall consist of the Archivist of the United States (or an alternate designated by him), who shall serve as Chairman of the Commission; the Librarian of Congress (or an alternate designated by him); two Members of the United States Senate to be appointed, for terms of four years; by the President of the Senate; two Members of the House of Representatives to be appointed, for terms of two years, by the Speaker of the House of Representatives; one member each as a representative of the American Historical Association, American Association for State and Local History, Organization of American Historians, Society of American Archivists, and American Society of Legal History, to be appointed by their respective governing boards for terms of four years; five members from outside the Federal Government, three of whom shall be selected from among the State Archivists of the several States, to be appointed by the President for terms of four years; and five members in public or private life selected on the basis of distinguished service and scholarship, to be appointed by the other members of the Commission for terms of four years.

(d) Those members appointed by the Commission shall take no part in other membership appointments made by the Commission.

(e) Any person appointed to fill a vacancy in the membership of the Commission shall serve for the remainder of the term for which his predecessor was appointed, and his appointment shall be made in the same manner in which the appointment of his predecessor was made.

(f) An appointment to the Commission may be renewed in the same manner in which the appointment was made.

(g) The Commission shall meet at the call of the Chairman, but not less than twice during each calendar year. Ten members of the Commission shall constitute a quorum.

(h) Members of the Commission not otherwise employed by the Federal Government shall receive as compensation $100 per day when engaged in the performance of the duties of the Commission, including travel time. While performing the duties of the Commission away from his home or regular place of business, each member of the Commission may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code.

(i) The Commission may appoint, without reference to the civil service and classification laws, an executive director and such professional and clerical staff as the Commission may determine necessary to carry out its duties, and to appoint and fix the compensation of such personnel. However, in no event shall an individual so appointed be compensated at a rate higher than that authorized for GS–15, step 10 by section 5332 of title 5, United States Code.

(j) Administrative services shall be provided by the General Services Administration on a reimbursable basis. To the extent of available appropriations, the Commission may obtain, in order to carry out its duties, by purchase, contract or otherwise, such additional property, facilities, and services which may not feasibly be obtained from the General Services Administration.

(k) The Commission shall submit an annual report to the President and the Congress on or before the 15th day of January of each year.

SEC. 102. In carrying out the purposes of this Act, the Commission is authorized—

(a) to undertake or support such projects of national or regional significance as it deems necessary for the preservation of documentary resources;

(b) to expend such appropriated funds as may be necessary to implement the other subsections of this section;

(c) to grant funds to States on a direct non-matching basis in accordance with criteria established by it to strengthen public and private documentary preservation programs;

(d) to establish a program of matching grants-in-aid to States for projects having as their purpose the preservation for public benefit of significant documentary resources;

(e) to establish special advisory committees to consult with and make recommendations to it, from among the leading historians, political scientists, archivists, librarians, and other specialists of the Na-

tion; members of such committees shall be reimbursed for transportation and other expenses on the same basis as members of the Commission;

(f) to adopt and use a seal which shall be judicially noticed;

(g) to contract for, accept, receive, hold, and administer any gifts or grants or property of financial or other aid in any form from any source, and comply subject to the provisions of this Act, with the terms and conditions thereof; and

(h) to adopt, amend, and repeal rules and regulations governing the manner in which its business may be conducted and the powers vested in it may be exercised.

SEC. 103. (a) No grant may be made by the National Historic Records Commission for or on account of any project under this Act with respect to which financial assistance has been given or promised under any other Federal program or activity, and no financial assistance may be given under any other Federal program or activity, for or on account of any project with respect to which assistance has been given or promised under this Act.

(b) No part of any money paid to a State under this Act shall be applied, directly or indirectly, to the purchase or erection of any building or buildings, or the purchase of any land; but such sums may be used for the acquisition of special equipment and minor remodeling or space used in connection with authorized projects under this Act.

(b) No part of any money paid to a State under this Act shall be applied, directly or indirectly, to the purchase or erection of any building or buildings, or the purchase of any land; but such sums may be used for the acquisition of special equipment and minor remodeling of space used in connection with authorized projects under this Act.

(c) No grant may be made under section 102, subsection (d) of this Act—

(1) unless the application therefor is in accordance with a comprehensive statewide documentary preservation plan which has been approved by the Commission and by either the advisory commission described in (2) below or the state commission described in (3) below;

(2) unless such comprehensive statewide documentary preservation plan provides for its administration by the archival agency of the state, duly constituted and having adequate authority under state law to administer it in accordance with its provisions and the provisions of this act, assisted by an advisory commission broadly representative of the public and private institutions of the state eligible for assistance under this act; or, in the absence of such a state archival agency,

(3) unless such comprehensive statewide documentary preservation plan provides for its administration by a state commission established by the state's chief executive, which shall have the same authorities, responsibilities, and representation as the archival agency and advisory commission described in (2) above.

SEC. 104. (a) A beneficiary of assistance under this Act shall keep such records as the Commission shall prescribe, including records which fully disclose the disposition by the beneficiary of the proceeds of such assistance, the total cost of the project in connection with which such assistance is given or used, and the amount and nature of that portion of the cost of the project supplied by other sources, and such other records as will facilitate an effective audit.

(b) The Comptroller General of the United States or his authorized representative shall have access for the purpose of audit and examination to books, documents, papers, and records of the beneficiaries that are pertinent to the assistance received under this Act.

SEC. 105. There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. TOWER (for himself, Mr. HANSEN, and Mr. STEVENS):

S. 1295. A bill to provide a tax credit for expenditures made in the exploration and development of new reserves of oil and gas in the United States. Referred to the Committee on Finance.

Mr. TOWER. Mr. President, for the past 3 years I have repeatedly warned that the Nation faced a pervasive and dangerous energy crisis. The short-term dimensions of this crisis can be summarized briefly, beginning with nuclear energy.

Primarily because of technological and environmental constraints, energy produced from nuclear sources has failed to meet the projected demand. It is hoped that these constraints can be resolved so that nuclear energy generation can realize its full potential.

Environmental, technological, and economic factors caused a decline in domestic coal production. Since we possess several hundred years supply of known coal deposits, at current rates of consumption, it behooves us to accelerate our efforts to perfect the necessary technology to make coal environmentally acceptable. I was gratified that the President's new budget reflects a similar concern by increasing the funding for research and development on coal gasification and liquification. We must accelerate this spending, however, if this resource is to realize its full potential. But until these problems are resolved, coal will not be able to provide a significant amount of increased energy demands of the future.

Natural gas is already in short supply with selective curtailment in effect at the present time in various regions, including Texas. It has been projected that by 1985, there will be a natural gas supply deficit of approximately 19 trillion cubic feet per year out of a potential demand of 34 trillion cubic feet per year by then. Unrealistic regulation of the wellhead price of gas is generally acknowledged to have been the primary cause of this deficit.

Crude oil production in this country is very near maximum capacity. It is unlikely that Western Hemisphere producers will be able to increase oil exports to us. In fact Canada recently announced a reduction in its exports to the United States. Therefore, in the short term, deficits in nuclear, coal, natural gas, and crude oil must be made up by imports of petroleum from the Middle East which is the only area in the free world with enough surplus producing capacity to be of significant help to us. Our imports of Middle Eastern oil are expected to increase rapidly and, by 1985, could total 15 to 19 million barrels per day.

This projection portends serious balance-of-payments problems for the United States on the order of $30 billion per year, by 1985, just for oil. By comparison, we ended 1972 with a $6.4 billion balance-of-trade deficit which was considered alarming. Achieving this projected deficit assumes that the Middle Eastern producing countries will be able and willing to produce and sell us this quantity of oil. External or internal forces could cause a disruption or even cessation of production and exports to us of the quantities of oil which we require. Should this occur, our national security, economic prosperity, and individual standard of living could be adversely affected.

The longer term energy situation can be somewhat brighter if the proper efforts are made now to remedy it. I am hopeful that in this time frame we will resolve the technological, environmental, and economic problems which have been constraining energy production from the sources named above and also from other sources such as solar, thermal, tidal, oil shale, and tar sands.

Therefore, the critical period is the short term—the next 10 to 30 years. For the short term, petroleum will continue to supply over one-half of our needs. Furthermore, the surest, most immediate and cheap relief for the energy crisis can be obtained from domestic petroleum sources.

Reliable experts have estimated that we possess over 200 billion barrels of recoverable oil and 2,100 trillion cubic feet of gas. Yet, exploration to tap these vast, undiscovered reserves has declined in recent years. Exploratory drilling for new supplies has declined from a peak of more than 15,000 wells annually in 1955 to fewer than 7,000 wells in 1971. At the same time, the results have diminished as barrels of oil discovered per foot of exploratory drilling have gradually declined.

There are a number of reasons for the decline in exploratory activity. All of the reasons are related to diminished economic incentives for domestic petroleum development. To phrase it another way, investors have not viewed investments in petroleum exploration profitable and have, therefore, placed their money elsewhere. Thus, the energy crisis stems directly from a capital crunch. Chief among the reasons for diminished economic incentives are: Continuing Federal regulation of the wellhead price of natural gas sold into interstate commerce which has kept the price of gas far below its true market value; the long-term decline in the real price of domestic crude oil; and substantial cost increases resulting from continuing inflation and a rising tax burden.

For example, natural gas, currently, sells at one-third that of crude oil on a B.t.u. basis and at one-fifth the price of imported natural gas. Taxes paid by domestic petroleum companies have increased more rapidly than net income. The cost of the reduction in the depletion allowance from 27½ percent to 22 percent resulted in an increase in the industry's annual tax burden of $500 million per year.

All of these factors have resulted in a decline in the ability of petroleum companies to generate adequate exploration funds internally. This has forced them to seek funds through borrowing. Business experts feel that some of these companies have already borrowed to the maximum

sound limits. Both of these factors have resulted in a decreased ability to secure equity capital through the sale of stock.

Thus, capital has become increasingly difficult to secure at the very time when increasing quantities are needed to help solve the energy crisis.

Some idea of the quantity of capital needed can be obtained from the fact that approximately $7,000 must be spent for each additional barrel of daily oil output capacity—from finding to delivery to consumers. Demand is expected to increase at the rate of about 700,000 barrels daily per year.

In 1970 the domestic industry devoted $4.3 billion to exploration and production. This investment has remained essentially the same since 1957. Yet, demand for petroleum has doubled in that period.

The National Petroleum Council estimates that from 1971 to 1985, $92 billion would be needed for investment in petroleum exploration and production activities. The Chase Manhattan National Bank of New York recently estimated a need for $140 billion of exploration of capital for the same period or about $9 billion per year just to maintain our present degree of energy self-sufficiency. This rate of investment would be double the present level.

In addition to these capital needs, it is estimated that another $70 billion will be required for tankers, gas transportation, refining, and port facilities.

Thus, by any measure, the domestic petroleum industry must secure fantastic amounts of capital; and it is in the interest of an abundant energy supply and in the public interest to see that risk capital is available.

There are several things that can be done to relieve this "capital crunch" with which the oil industry is faced. First, the price of domestically produced crude oil must be allowed to rise at least enough to offset inflationary cost increases. But increases in the price of domestically produced crude oil were severely limited recently with the justification that such price restrictions would "assure the American consumer an adequate supply of oil at reasonable prices." Fixing the price of domestically produced crude oil will achieve exactly the opposite result. Since 1957, the price of domestic crude has declined 30 percent in 1971 dollars. At the same time, exploration and development cost increases have reduced profits, and, as a result, have hampered the ability of the domestic petroleum industry to secure the vast quantities of risk capital necessary to explore for and develop our indigenous, undiscovered petroleum reserves. Thus, it is of primary importance that we move toward allowing the price of domestically produced crude oil to be determined by the free market.

A second way to provide the necessary risk capital is to legislatively remove the Federal Power Commission from the job of regulating the well-head price of gas sold into interstate commerce. Even though natural gas has furnished almost as much of our energy as oil, it has contributed only about 25 percent of the gross revenues of domestic petroleum companies.

Undoubtedly, the price of gas discovered after the enactment of such legislation would increase as its true market value is established. For the same reason, the price of gas already committed to sales contracts would increase as these contracts expire. But the increases would be gradual. And more importantly, the greater gas revenues would encourage more exploration for this cleanest burning fossil fuel which would help in our efforts to clean up the environment and would provide consumers with a continuing supply of gas where current shortages will worsen.

I have recently introduced legislation which would accomplish this deregulation. I again urge the prompt, favorable consideration of this legislation as one necessary remedy to our national energy crisis.

Finally, we must provide some investment incentive to help compensate for the extremely high risks which are a fact of life in the petroleum exploration business.

To illustrate the risks inherent in oil drilling, only about one out of 50 exploratory wells drilled in the United States repays its cost and returns a profit.

Mr. President, in this regard, I am today introducing legislation with Senator HANSEN and Senator STEVENS which would create an exploration tax credit. This legislation would allow a taxpayer to credit against his annual income taxes an amount equal to 12.5 percent of any money spent exploring for and developing new petroleum reserves in the United States or in initiating new secondary recovery projects. This legislation would expire 10 years after enactment unless extended.

The advantage of this form of investment incentive is that it would provide benefits only for those who actually spend money looking for new reserves in this country.

There are other actions which Congress or the Executive could and should take to begin to solve the energy crisis. But these three steps to allow increases in the price of crude oil, to deregulate the price of natural gas at the wellhead, and to provide an investment tax credit would surely do a great deal to solve the capital crisis in the quickest, and, in the long run, the cheapest method. Private industry cannot be responsive to the demands of the consumer if its hands are tied. This legislation will help to free those hands so that they can again work to keep the American people well supplied with energy.

Mr. HANSEN. Mr. President, I am happy to again join the distinguished senior Senator from Texas (Mr. TOWER) as a cosponsor of his bill to allow a tax credit for expenditures on exploration and development of domestic oil and gas reserves.

As the able Senator who is so well versed in the problems of the oil and gas industry has pointed out, this Nation now faces energy problems of serious proportions and the only realistic and reliable solution for the next decade and probably longer lies in the development of our own abundant domestic resources of energy.

Inasmuch as some three-fourths of the energy requirements of the Nation—99 percent of the energy that powers U.S. transportation—comes from oil and gas, the only sensible and practical solution is, in my opinion, a greatly stepped-up program of exploration for and development of the deposits that I am assured still exist in the continental United States and Alaska, both onshore and offshore.

Recognizing the impending crisis for what it is, the Senate almost 2 years ago approved Senate Resolution 45, a study of national fuels and energy policy. That study by the Interior Committee with participation by the Joint Committee on Atomic Energy, the Commerce Committee, and the Public Works Committee is now nearing the end and the committee will soon be publishing some of its findings and recommendations.

In the meantime other legislation including other tax incentive proposals have been introduced. Also the President has placed greater emphasis and added funding to research and development intended to hurry coal gasification and liquification projects. A new prototype oil shale leasing program will soon be announced and the fast breeder reactor program has also been stepped up along with other long-term energy prospects.

But these are all programs of long leadtime that can and must supplement the fossil fuel on which we now depend and on which we will continue to rely for a good many years.

So the legislation now proposed for added incentives for discovering new domestic supplies of oil and gas is of urgent and vital importance to the Nation's welfare, progress, and national security in the interim period before these supplemental fuels are available and nuclear power becomes a real factor in the overall energy picture.

As any objective study or examination will reveal, oil and gas have been and still are real bargains in America. As many of us have contended for years, the unrealistic wellhead pricing of natural gas has been the principal factor in the rapidly increasing use of this cleanest and most convenient fuel at rates greater than new supplies are being discovered.

The able Senator from Texas (Mr. TOWER) and I have introduced legislation to decontrol the wellhead price of gas for interstate use and the Federal Power Commission has instigated proceedings to approve applications for reasonable price increases to encourage exploration and development of new supplies.

The need, though, is now to reverse the dissipation of both our oil and gas reserves and the increasing reliance on foreign sources.

Mr. President, events of the past winter can leave no doubt that the warnings of an energy shortage were very real and even the coming summer may see gasoline shortages around the Nation.

Mr. President, this Nation cannot afford to forfeit its world industrial leadership by default. But there is no surer way this could happen than for the United States to lose its energy self-sufficiency.

There would be no need for enemy submarines or any overt act of warfare to

bring this Nation to its knees. All it would take would be the individual or concerted political decisions of those who control most of the world's oil production. Some three-fourths of the known world oil reserves are in the Middle East and North Africa. Even in our own Western Hemisphere, American oil properties have been expropriated or nationalized and others are threatened.

Whether these supplies should be cut off or not, no one but a dreamer can foresee them staying cheap once the United States must rely on them.

The only answer is U.S. self-sufficiency in its essential fuel needs and those needs must surely be furnished by oil and gas for a good many years.

The incentive bill which I cosponsor with the distinguished Senator from Texas (Mr. TOWER) will, in my opinion, offer an immediate stimulant to a waning oil and gas exploration and development program, quickly reverse the downward trend of oil and gas reserves and maintain self-sufficiency in our principal energy source.

By Mr. McINTYRE:

S.J. Res. 79. Joint resolution relating to World War I Veterans' Day. Referred to the Committee on the Judiciary.

WORLD WAR I VETERANS' DAY

Mr. McINTYRE. Mr. President, I am introducing for appropriate reference a joint resolution that would restore November 11 as "World War I Veterans' Day." I wish to bring this matter to the attention of my colleagues, for I know that the celebration of Veterans' Day is of prime importance to them as it is to citizens all across this country.

It is well known that in 1968 the Congress moved to combine all veterans' observances into a single day. And in so doing the date of the celebration was moved to a Monday in October to create a 3-day weekend.

I think that it is time to have a day set aside to honor the veterans of all our wars, and yet I do not think that it is appropriate at all to diminish remembrance of the armistice which ended the First World War. In so doing, we diminish the remembrance of our veterans' great sacrifices.

To countless Americans the 11th hour of the 11th day of the 11th month will forever live as a day of joy after the agonizing years of conflict. It would be wrong for the Congress to appear to be ready to erase that important memory from our history.

Before I introduced this legislation last year I contacted World War I veterans all across New Hampshire and their support for this resolution was nearly unanimous. For a variety of reasons, the veterans of World War I often think of themselves as this Nation's forgotten fighting men. We cannot allow that feeling to persist. I believe that my bill goes a long way toward restoring the dignity and honor these men earned—and well deserve.

Although more than a half century has passed since the armistice was signed, I see no reason why we should consider the day any less significant in our Nation's history. We owe no less honor to the brave men who fought in the fields and trenches of France. I sense that all across America citizens feel unsettled about our present Veterans' Day celebration and I believe that we should return to honoring these men on the traditional day.

Therefore, Mr. President, to acknowledge the great effort made on our behalf by our World War I veterans I would encourage my colleagues to consider my joint resolution that empowers the President to declare a "World War I Veterans' Day" and to invite veterans' groups, churches, and other organizations across the country to observe the day with appropriate ceremonies.

Mr. President, I ask unanimous consent to have the joint resolution printed in the RECORD at this point.

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

S.J. RES. 79

Whereas November 11, 1918, was the date of promulgation of the Armistice which concluded World War I;

Whereas for many years, November 11 of each year was known as "Armistice Day" in commemoration of the great service to mankind rendered by the veterans of World War I;

Whereas in recent years the term "Veterans Day" has been used to commemorate the great service of all veterans to the people of this Nation; and,

Whereas "Armistice Day," as commemorative of the veterans of World War I; has become so integral a part of American national observances: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue annually a proclamation designating November 11 of each year as "World War I Veterans Day," veterans' groups, churches, and their affiliated organizations, to observe such day with appropriate ceremonies and activities.

By Mr. ROTH (for himself, Mr. BAYH, Mr. BENNETT, Mr. CANNON, Mr. DOMENICI, Mr. DOMINICK, Mr. ERVIN, Mr. HOLLINGS, Mr. HUMPHREY, Mr. McGEE, Mr. McINTYRE, Mr. PASTORE, Mr. PELL, Mr. SCOTT of Pennsylvania, Mr. TALMADGE, Mr. THURMOND, and Mr. YOUNG):

S.J. Res. 80. Joint resolution to authorize the President to issue annually a proclamation designating the month of May in each year as "National Arthritis Month." Referred to the Committee on the Judiciary.

ARTHRITIS RESEARCH AND TRAINING IS OF VITAL INTEREST TO MILLIONS OF AMERICANS

Mr. ROTH. Mr. President, during the 92d Congress I introduced in the Senate a joint resolution to designate the month of May as "National Arthritis Month." Former Representative Dave Pryor, of Arkansas, proposed an identical resolution in the House. This joint resolution, as House Joint Resolution 1029, was approved by both Houses of Congress and signed by the President in May of 1972. Since House Joint Resolution 1029 applied only to 1972, I am again introducing an "Arthritis Month" resolution, Senate Joint Resolution 80. A similar resolution House Resolution 275, has been introduced in the House by Representative HOWARD of New Jersey.

The main purpose, of course, of this measure is to call attention to the great human and economic waste and suffering which results from arthritis and rheumatic diseases. I have long felt that this group of diseases, which account for more chronic illness than any other group of maladies except heart disease, should receive more attention in our effort to bring better health to all Americans. Senate Joint Resolution 80 would call attention to the curse which arthritis represents to so many during the month when the Arthritis Foundation conducts its major drive for funds.

It seems to me that in allocating our always scarce public and private resources we should give careful attention to the total impact of a particular health problem on our society. While arthritis may not result in a relatively large number of deaths, its human and economic toll is staggering. The Arthritis Foundation has recently released a study entitled "Professional Manpower in Rheumatology" which convincingly documents this toll, as well as what is needed to significantly lessen it.

This survey shows that at least 20 million people in the United States suffer from arthritis, rheumatism, gout, and other arthritic-like conditions. While the most common arthritic disease is usually associated in our minds as a malady of old age, about 3.5 million Americans under 45 years of age are afflicted by some form of arthritis. In fact, the victims of the exceedingly virulent rheumatoid form of arthritis are primarily under 45, including over a quarter of a million children.

An article in the New York Times on February 10, 1973, points out that arthritis, in addition to being a human curse, brings great economic losses on our society. The Times presented statistics from the National Center for Health Statistics showing arthritis second among 21 major diseases in terms of its limitation of activity, fourth in terms of days of bed disability it causes, and ninth in terms of days of hospitalization resulting from it.

It does not take much imagination to understand the lost wages, medical costs, payments by the Veterans' Administration, losses in taxes, and expenditures on "quack" remedies resulting from the effects of arthritis. This is not to mention the mental and physical human resources lost to our society. The economic and social quality of American life cannot continue to rise without adequate investment in the sort of research and development that expands these human resources.

The same Arthritis Foundation survey of professional manpower to which I referred earlier clearly demonstrated the inadequate number of rheumatologists available to combat the rheumatic diseases. It was found that most victims of arthritis go untreated; that most physicians are not trained to treat these patients; that insufficient facilities exist for

the training of allied health personnel in this area; and that the need for rheumatologists far exceeds the supply and that this gap is growing. The report concludes that over 400 new clinical teaching positions are needed to provide those who are afflicted by arthritis and rheumatic diseases with something like adequate care.

Mr. President, I am as quick as anyone to note the great cost of any Federal effort to improve the health of Americans. I have actively worked to impose a realistic ceiling on Federal spending as well as to improve congressional budgeting during this and the last Congress. One of the major purposes of these efforts is to make it possible for the legislative branch to take an overall look at the resources and competing priorities of our National Government.

If the Senate and the House of Representatives were to take such an approach to budgeting, coupled with an intensified effort to evaluate the output of Federal activities, we would undoubtedly expand some programs and lessen or eliminate our commitment to others. In my own mind basic research in the causes and treatments of disease and the training of personnel to deliver improved health care rates high in the competition for always limited tax dollars.

More specifically, I would urge a continuing national commitment to research in the causes of arthritis and to training the professionals needed to treat its victims. It concerns me that the 1974 budget estimates that $20 million less will be available to the National Institute of Arthritis, Metabolic, and Digestive Diseases in 1974 than was authorized in 1972. It is to say the least, "pennywise and pound-foolish" to inadequately fund our attack on arthritis and rheumatic diseases. We will be paid back many times for expenditures in this effort through the relief of mental and physical suffering, the lessening of the economic costs of these diseases, and the expansion of vital human resources.

As a small way of calling attention to the need for continuing private and public efforts to lessen the pain of arthritis for over 20 million Americans, I urge the adoption of Senate Joint Resolution No. 80 to designate the month of May as "National Arthritis Month."

Mr. President, I ask unanimous consent that the text of Senate Joint Resolution No. 80 be printed in the RECORD at this point.

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

S.J. RES. 80

Whereas arthritis and rheumatic diseases are the Nation's number one crippling diseases affecting twenty million Americans of all ages causing limitations in their usual activities and great suffering;

Whereas arthritis and rheumatic diseases are second only to heart disease as the most widespread chronic illness in the United States today;

Whereas the annual cost of arthritis and rheumatic diseases to Americans is estimated to exceed $3,500,000,000 annually in lost wages, medical and disability payments, and taxes lost to the Federal government;

Whereas advances in research and treatment show promise of significant breakthrough leading to a better understanding of and cure for these diseases;

Whereas the month of May is the period during which The Arthritis Foundation conducts its annual fund-raising campaign to support its efforts in arthritis research and treatment; and

Whereas the most common form of arthritis strikes mainly older Americans and it is most important that the nation focus more attention on the problem of this important group of citizens: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President of the United States is authorized and requested to issue annually a proclamation (1) designating the month of May in each year as "National Arthritis Month," (2) inviting the Governors of the several States to issue proclamations for like purposes, and (3) urging the people of the United States, and educational, philanthropic, scientific, medical, and health care professions and organizations to provide the necessary assistance and resources to discover the causes and cures of arthritis and rheumatic diseases and to alleviate the suffering of persons struck by these diseases.

By Mr. SCHWEIKER:

S.J. Res. 81. A joint resolution to authorize and request the President to issue annually a proclamation designating the week beginning on the third Sunday of October of each year as "National Drug Abuse Prevention Week." Referred to the Committee on the Judiciary.

Mr. SCHWEIKER. Mr. President, today I am introducing a Senate joint resolution, which would authorize and request the President to issue annually a proclamation designating the week beginning on the third Sunday of October of each year as "National Drug Abuse Prevention Week."

Drug addiction, particularly heroin addiction, is one of the most critical problems facing our country today, and one which affects literally every segment of the society. What was once a situation unique to the inner-city poor now strikes the most affluent. Heroin addiction, in particular, has reached crisis proportions and is continuing to grow at an alarmingly rapid rate, especially among the young.

The costs of such addiction are great and involve not only the tangible value of property stolen to maintain drug habits, but also the human suffering of addicts stemming from increased rates of mortality and incarceration in a prison system not prepared to deal with a large drug population.

As the ranking Republican member of the Senate Subcommittee on Alcoholism and Narcotics, I have visited a number of urban areas with serious drug problems. The subcommittee conducted field hearings around the country, including Pittsburgh, to learn more about local problems and about local programs being devised to combat them. On April 23 and 24, I will be chairing field hearings of the subcommittee in Philadelphia to study the problem there. We have just begun to realize how little we know about drugs and drug abuse and how limited our resources are to effectively deal with the problem at present.

I am greatly encouraged by many of the broad-based community programs which have been set up on the local level to help the addict and the potential addict. In Philadelphia, for example, drug treatment programs have been greatly expanded, and experts in the field believe the city may, by the mid-1970's, be able to bring 25 to 30 percent of its addict and heavy drug-using population into regular treatment of some kind. I am deeply concerned, however, that recent statistics show drug-related deaths were up 83 percent for the first quarter of 1972 over a corresponding period a year before and that 70 percent of those detained in city prisons have had a needle in their veins within 24 hours of arrest.

Despite all that has been done to alleviate the situation, much remains to be corrected. We need the cooperative efforts of private citizens and public officials alike, at the National, State, and local levels to help reverse these tragic statistics.

Although public awareness relating to drug prevention has increased, a greater sensitivity to all the ramifications of drug abuse is still needed. I am hopeful that through the adoption of this resolution designating a week each year as "National Drug Abuse Prevention Week," we will gain more of the public's attention.

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

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

S.J. RES. 81

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in order to increase the awareness of the people of the United States with regard to the national threat of drug abuse, and to provide an opportunity for a period of special emphasis on this problem, the President is authorized and requested to issue annually a proclamation designating the week beginning on the third Sunday of October of each year as "National Drug Abuse Prevention Week", and calling upon the people of the United States and interested groups and organizations to observe such period with appropriate ceremonies nad activities.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 4

At the request of Mr. WILLIAMS, the Senator from South Carolina (Mr. HOLLINGS) was added as a cosponsor of S. 4, the Retirement Income Security for Employees Act of 1973.

S. 17

At the request of Mr. WEICKER (for Mr. SCHWEIKER), the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 17, the National Diabetes Research and Education Act.

S. 255

At the request of Mr. EAGLETON, the Senator from Maryland (Mr. MATHIAS)

was added as a cosponsor of S. 255, a bill to repeal certain provisions which become effective January 1, 1974, of the Food Stamp Act of 1964 and section 416 of the Agricultural Act of 1949 relating to eligibility to participate in the food stamp program and the direct distribution program.

S. 340

At the request of Mr. TOWER, the Senator from Texas (Mr. BENTSEN) was added as a cosponsor of S. 340, a bill to establish a commission to study the usage, customs, and laws relating to the flag of the United States.

S. 352

At the request of Mr. MCGEE, the Senator from South Dakota (Mr. ABOUREZK) was added as a cosponsor of S. 352, the Voter Registration bill.

S. 444

At the request of Mr. HARTKE, the Senator from Alabama (Mr. ALLEN) was added as a cosponsor of S. 444, the Health Care Act of 1973.

S. 582

At the request of Mr. SCOTT of Pennsylvania, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 582, providing social services for the aged.

S. 867

At the request of Mr. WILLIAMS, the Senator from Maine (Mr. HATHAWAY), the Senator from Oregon (Mr. PACKWOOD), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 867, a bill to eliminate discrimination against women in extending credit.

S. 1046

At the request of Mr. RIBICOFF, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1046, the Taxpayers Protection Act.

S. 1079

At the request of Mr. FONG, the Senator from Ohio (Mr. TAFT) was added as a cosponsor of S. 1079, to establish an Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia.

S. 1082

At the request of Mr. BAYH, the Senator from Rhode Island (Mr. PASTORE), the Senator from New Hampshire (Mr. MCINTYRE), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 1082, a bill to repeal the bread tax.

S. 1095, S. 1096, AND S. 1097

At the request of Mr. SCOTT of Pennsylvania, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1095, to amend the Communications Act of 1934 with respect to the application of the equal time provisions of section 315 to candidates for Federal elective office, and for other purposes; S. 1096, to provide for a campaign mail privilege for qualified candidates for Federal office; and S. 1097, to amend the Internal Revenue Code of 1954 to provide that political contributions are not subject to the gift tax.

S. 1121

At the request of Mr. KENNEDY, the Senator from Maine (Mr. MUSKIE) was added as a cosponsor of S. 1121, a bill to amend the Federal Regulation of Lobbying Act.

S. 1197

At the request of Mr. HARTKE, the Senator from Alaska (Mr. GRAVEL) was added as a cosponsor of S. 1197, the Food Consumers' Protection Act of 1973

S. J. RES. 24

At the request of Mr. MCINTYRE, the Senator from Rhode Island (Mr. PASTORE), the Senator from Utah (Mr. BENNETT), the Senator from Texas (Mr. BENTSEN), the Senator from North Dakota (Mr. BURDICK), the Senator from Colorado (Mr. DOMINICK), the Senator from North Dakota (Mr. YOUNG), the Senator from Nevada (Mr. BIBLE), the Senator from Pennsylvania (Mr. SCOTT), the Senator from Indiana (Mr. BAYH), the Senator from Nevada (Mr. CANNON), the Senator from Arkansas (Mr. MCCLELLAN), the Senator from Maine (Mr. HATHAWAY), the Senator from Illinois (Mr. STEVENSON), the Senator from South Dakota (Mr. MCGOVERN), the Senator from Arizona (Mr. FANNIN), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. GRAVEL), the Senator from West Virginia (Mr. RANDOLPH), the Senator from Rhode Island (Mr. PELL), the Senator from Alaska (Mr. STEVENS), the Senator from Utah (Mr. MOSS), the Senator from Oklahoma (Mr. BARTLETT), and the Senator from Oregon (Mr. PACKWOOD) were added as cosponsors of Senate Joint Resolution 24, asking the President of the United States to declare the fourth Saturday of each September "National Hunting and Fishing Day".

SENATE JOINT RESOLUTION 64

At the request of Mr. CHURCH, the Senator from New Mexico (Mr. DOMENICI), the Senator from Arkansas (Mr. MCCLELLAN), and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of Senate Joint Resolution 64, to protect physicians, other health care personnel, hospitals, and other health care institutions on the exercise of religious or philosophical beliefs which proscribe the performance of abortions or sterilization procedures.

SENATE RESOLUTION 83—SUBMISSION OF A RESOLUTION TO DIRECT THE FEDERAL COMMUNICATIONS COMMISSION TO REVISE CERTAIN RULES

(Referred to the Committee on Commerce.)

Mr. MCINTYRE. Mr. President, I submit for appropriate reference a Senate resolution which directs the Federal Communications Commission to review and, where consistent with the public interest, amend its rules to reflect the advanced state of modern broadcasting, while paying special attention to relieving the country's 5,820 smaller broadcasters of unnecessary paperwork and reporting requirements.

I am gratified that the distinguished senior Senator from Nevada and the chairman of the Small Business Committee (Mr. BIBLE) has joined with me in this effort. I am aware of his constructive interest in this problem by virtue of a survey he carried out of small broadcasters in his home State who submitted some valuable suggestions at our hearings, plus the fine testimony of Mrs. Lorraine Walker Levine, president of the Nevada Broadcasters Association.

The resolution proposes to express the sense of the Senate that the Federal Communications Commission reexamine its rules and regulations with a view: First, toward reducing its reporting requirements and procedures; second, to consider a shorter license renewal form for small market broadcasters; third, to consider simpler Fairness Doctrine procedures; and, fourth, to reexamine its current proposal to increase the paperwork burden by requiring public availability of program logs consistent with modern broadcasting ability.

In urging these reforms, I do not mean to lessen the Commission's responsibility to insure that broadcasters operate in the public interest.

As chairman of the Senate Small Business Committee's Subcommittee on Government Regulation, we held hearings on February 6 and 7 on the paperwork and reporting requirements imposed on small broadcasters. Today I feel stronger than ever that present FCC paperwork procedures need to be overhauled, something which the Commission has not done thoroughly for decades.

While I praise the FCC re-regulation efforts currently underway, I believe the scope and speed should be accelerated, which is the purpose of this resolution I am offering today.

Small market broadcasters provide a vital public service to thousands of small communities throughout this Nation. These broadcasters offer diverse programing to meet all the needs and interests of their audience area. Yet, these broadcasters are inundated with the same amount of paperwork as major market stations plus many unnecessary and obsolete rules and regulations.

These small stations are really small businesses with limited personnel and financial resources. Members of the staffs of these stations perform dual functions. They provide vital information on weather, news, topical discussions, and entertainment for their communities. Any time which is devoted to cumbersome and needless Government paperwork detracts from the time these people need to operate their stations in the public interest.

Presently, the Commission is in the process of reviewing its regulations and procedures. For example, the Commission has already taken several limited steps to relax technical operating rules. This effort, though laudable, has not gone far enough. Testimony before the subcommittee indicates that many small market broadcasters operate at a loss. In fiscal year 1971, about 1,338 of the 4,176 radio stations reported a loss. Half of these stations reporting a loss are located in markets with a population of 50,000 or less.

About 40 percent of the small market

television stations reported a loss in fiscal year 1971, or 97 out of 247 stations. Much of this loss can be attributed to the costs of complying with FCC reporting requirements and other such regulations. FCC rules and paperwork requirements make no distinction between large market and small market broadcasters. Paperwork and reporting requirements are the same for both. A large station can more easily spread the costs of staff, technical, legal and accounting assistance necessary to comply with FCC regulations than can a small station with limited staff and, most importantly, limited revenues.

Several witnesses before my subcommittee hearings on FCC paperwork requirements urged adoption of a number of reasonable proposals. They thought that:

It would be possible to divide stations into large and small categories based on market size or dollar revenue;

A shorter renewal form similar to the 1040A Internal Revenue Service tax form would substantially lessen the paperwork burden on small market broadcasters;

In license renewal applications, a narrative ascertainment survey description could be substituted for the detailed requirements of the current community survey procedure;

Numerous forms which must be submitted to the FCC on an annual basis could be consolidated, thus eliminating repetitious filings; and

The fairness doctrine obligations could be clarified and simplified for small market broadcasters.

Another FCC proposal requiring that programing logs be available at public places for inspection, was attacked by witnesses before the subcommittee. This should be reconsidered to determine if its service to the public is outweighed by the costly expense and burden it would place on the individual broadcaster.

Mr. President, I am extremely hopeful that the Communications Subcommittee of the Senate Commerce Committee will have an opportunity to consider this resolution in the very near future, in order that the Federal Communications Commission might move with all deliberate speed to end the present costly redtape and reporting burden imposed on our Nation's small broadcasters.

I welcome any Senator interested in doing so, to join me in the cosponsorship of this resolution. Likewise, I would hope that our colleagues in the House of Representatives might consider a similar resolution which would further stimulate FCC programs to reduce these costly and burdensome requirements.

The resolution reads as follows:

S. RES. 83

Resolved, That it is the sense of the Senate of the United States of America in Congress assembled that the Federal Communications Commission be directed to review and amend its rules to reflect the rapidly advancing state of the broadcast art, giving special attention to the many problems confronting small market radio and television broadcasters.

Whereas, pursuant to the Communications Act of 1934, as amended, the Congress of the United States created the Federal Communications Commission to regulate radio communications in the public interest; and

Whereas, certain Commission rules are dated or obsolete and no longer serve the public interest; and

Whereas, the burdens imposed on broadcasters by certain Commission rules can no longer be justified; and

Whereas, the Commission currently is proceeding with re-regulation of radio broadcasting to delete all meaningless, redundant, and dated regulations; and

Whereas, the Commission has heretofore recognized distinctions between large markets and small markets and between radio and television; and

Whereas, all broadcast licensees must comply with the same renewal procedures, submit the same ascertainment surveys, and are subject to the same complex rules under the Fairness Doctrine; Now Therefore, be it

Resolved by the Senate of the United States of America in Congress assembled, That the Federal Communications Commission be directed to review and amend its rules to reflect the rapidly advancing state of the broadcast art; that in modifying and deleting out-dated rules, it give special attention to the problems confronting small market licensees; and that it immediately proceed to relax and delete rules where the public interest served is not commensurate with the burden imposed on broadcasters.

Mr. BIBLE. Mr. President, I am highly pleased to join my good friend and distinguished colleague, the Senator from New Hampshire (Mr. MCINTYRE), in cosponsoring this resolution which is designed to lighten the present intolerable paperwork burden on the small broadcasters of our Nation.

As chairman of the Senate Small Business Subcommittee on Government Regulation, Senator MCINTYRE conducted recent hearings and his work has provided clear evidence that current Federal Communications Commission rules and regulations have, in too many instances, placed unnecessary and unduly burdensome requirements on the small broadcaster.

At the present time, every broadcaster in the country must meet the same filing requirements. This means that the small broadcaster in Elko, Nev., with perhaps two or three employees, must provide the same voluminous reports as the largest station in New York City, with a staff of several hundred.

The evidence indicates that the Commission's failure to distinguish between small stations and large stations is forcing small broadcasters out of business because of this excessively unfair paperwork problem.

As Senator MCINTYRE has noted, nearly one-third of the Nation's 4,176 radio stations lost money during 1971 while 40 percent of the small market television stations reported losses for the same year.

Frankly, I can see no justification for placing the same Government reporting and other requirements on all broadcasters, and I am hopeful this resolution will provide greater support and stimulus for the FCC to correct this situation.

This is just one example of the problems confronting the same broadcaster which this resolution directs the FCC to consider. We are also seeking to simplify the fairness doctrine procedures and to shorten the license renewal forms for small market broadcasters.

These steps will enable small broadcasters to do a better job of serving their audience. And they will also give the small broadcaster a chance to make his station a more productive business operation.

Mr. President, I urge my colleagues to join in supporting this resolution so that the small broadcasters of America can be freed from the hardships of these oppressive and unfair requirements which are doing a disservice not only to them, but to the public as well.

SENATE RESOLUTION 84—SUBMISSION OF A RESOLUTION DESIGNATING ROOMS IN THE CAPITOL AS THE "HARRY FLOOD BYRD ROOM"

(Referred to the Committee on Rules and Administration.)

Mr. ALLEN submitted the following resolution:

S. RES. 84

Resolved, That the rooms located in the United States Capitol and designated numbers S–113, S–114 are hereby designated, and shall be known, as the "Harry Flood Byrd Room", in honor of the late great U.S. Senator (1933–1965) from Virginia.

SEC. 2. (a) Any law, regulation, document, map, or record of the United States in which reference is made to the rooms referred to in the first section of this resolution shall be held and considered to be a reference to the "Harry Flood Byrd Room".

(b) The Committee on Rules and Administration is hereby authorized and directed to place an appropriate marker or inscription at a suitable location or locations to commemorate and designate such room as provided herein. Expenses incurred in connection therewith shall be paid from the contingent fund of the Senate upon vouchers approved by the chairman of such committee.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1973—AMENDMENT

AMENDMENT NO. 42

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

Mr. CHILES submitted an amendment, intended to be proposed by him, to the bill (S. 398) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 43

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

FOOD PRICE CONTROLS

Mr. RIBICOFF. Mr. President, I am submitting an amendment to S. 398 to end the skyrocketing cost of food.

This amendment to the Economic Stabilization Act would extend price controls to raw agricultural and meat products as well as to processing, wholesaling and retailing. Phase I and II food price controls applied only to food products starting at the processing stage, and continuing through wholesale and retail distribution. Under phase III, raw agricultural products remain exempt from control although food processing and distribution remain under mandatory controls.

Under the terms of my amendment, prices for raw agricultural goods would be frozen at the March 1, 1973 level. Existing phase III controls on food processing and distribution would remain in effect under my amendment.

It takes no great expertise to recognize what housewives have known for some time: food prices are rising at rapid rates. In the last year the wholesale price of eggs has gone up 40 percent; wheat, 57 percent; coffee, 40 percent; cocoa, 47 percent; and bacon, 48 percent.

According to the Department of Agriculture, uncontrolled farm product prices, as of January 15, 1973, were 21 percent higher than a year before, even though the prices paid by farmers for commodities, equipment, wages, interest and taxes had gone up only 9 percent. The lower increase in retail food prices during these 12 months, 7.6 percent, was only possible because food processors, wholesalers, and distributors absorbed some of the farm price rise.

The most recent survey of food prices shows that high prices are finally driving the Nation's consumers to protest by boycotting expensive products such as beef. A report in the Washington Post of March 15 reveals that, according to the National Association of Food Chains, beef sales dropped during February an average of 4 percent. Consumers are substituting fish and cheese for beef purchases and are increasingly unhappy about such forced choices.

Price controls are receiving increasing support as the way to attack this problem. On February 26, the AFL–CIO Executive Council called for controls on raw agricultural products. And on March 16, Mr. I. W. Abel, chairman of the AFL–CIO Economic Policy Committee, testified in favor of such controls before the Joint Economic Committee.

The President apparently is unwilling to make the effort necessary to halt food price inflation. In his February 21, 1973, radio address, he contended that increasing food imports and releasing food stockpiles would drive down prices later in the year. Such broad assurances are not sufficient to help the American family who is feeling the price pinch right now.

The administration would also have us believe that existing price controls are adequate to control food cost inflation. This is not the case. The fact is that price controls on food at the processing, wholesaling, and retailing level have been an abysmal failure.

In the last 6 months, the wholesale price index for farm products and processed foods increased at a rate of 30.8 percent, compared to 11 percent for all commodities. In the last 3 months food was up to 56 percent, compared to 18.6 percent for all commodities.

These statistics clearly indicate that the existing phase III controls on processing, wholesaling and retailing must be extended to raw agricultural production at the farm level if we intend to halt the severe inflation in food prices. This is especially so in view of the fact that the bulk of our food dollar goes to the farmer. The farmer received 33.4 cents of every food dollar, the retailer gets 33.1 cents, the processor gets 22.1 cents, the wholesalers 6.1 cents, and transportation firms 5.3 cents. With controls already in force for the middleman, over 80 percent of the price increases in food in the past year have gone to farmers, primarily large corporate farmers.

Freezing farm prices will not hurt the small farmer. The small farmer is no longer a major factor in American agriculture. Farming is now a major business.

Three-fourths of all farm sales are now made by 19 percent of all farmers. Owners of farms selling less than $5,000 in products received 83.5 percent of their total income from nonfarm sources.

The committee bill, S. 398, does not assure that food prices will be stabilized. Instead, it requires a quarterly report by the President to Congress describing the rate of change in food prices by category of food with accompanying reasons for the change. The committee bill also requires the President to state the action he has taken or what action he recommends to the Congress to be taken to stabilize food prices. We have reached a crisis in food price inflation. What is needed are real controls, not presidential reports.

Adoption of the amendment I introduce today to the Economic Stabilization Act will finally put some teeth into price controls and will assure every American consumer of a stable grocery bill during the 1 year extension of the act.

I ask unanimous consent that the following materials be inserted at this point in the RECORD.

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

STATEMENT BY THE AFL–CIO EXECUTIVE COUNCIL

For almost all American families food is the largest single budget item. If the fear of continuing inflation is to be stilled, the price of food must be stabilized effectively.

No American housewife requires a professional statistician to dramatize how rising food costs have been undermining her family budget. While the Consumer Price Index as a whole went up 3.7 percent between January 1972 and January 1973, the price of food consumed at home rose 7.6 percent; the retail cost of meat, poultry and fish soared by 12.8 percent. During these same 12 months, the wholesale price of farm products generally soared by 22.4 percent—indicating pressures on retail food prices in the coming months.

While rising food prices distress all consumers, the greatest burden falls inevitably on families with moderate and low incomes. In 1971, according to the Bureau of Labor Statistics, food costs accounted for over 27 percent of all outlays of a four-person urban family with a budget of $7,200 and the percentage is higher now. For millions of families, with still lower incomes, the impact of soaring food prices has been even more painful.

Rising price tags at the check out counter largely reflect the uncontrolled rise in the price of various agricultural commodities, at a time when demand has been rising rapidly. Although farm product prices generally are highly volatile—responding quickly to changing weather and other conditions—the recent pressure of rising demand, both at home and from abroad, has sharply bid up the price of many major farm commodities.

The long-term rise in population and living standards at home and the current economic expansion in the U.S., combined with record agricultural exports in response to grain shortages in other countries, plus the exclusion of agricultural products from the Administration's stabilization program, have inevitably created demand pressures, as well as a price and profit bonanza for the sellers of those farm items in greatest demand.

According to the U.S. Department of Agriculture, uncontrolled farm product prices, as of January 15, were 21 percent higher than a year before, even though the prices paid by farmers—for commodities, equipment, wages, interest and taxes—had gone up by only 9 percent.

The fact that the retail food price rise during these 12 months held at 7.6 percent was only possible because food processors, wholesalers and distributors absorbed some of the farm price rise, the Department of Agriculture reports. With the wages of the workers who move the food supply through processing to retail store shelves held under rigorous Phase I and II controls, and with food prices but not farm product prices subject to controls, it comes as no surprise that Agriculture Department figures show that, during that period, out of every dollar of price increase charged food consumers, 82 cents went to higher farm prices.

The Administration has now begun a belated program to dampen the food price rise by increasing the supply of farm products. It has announced that restrictions placed on the acreage planted to major field crops will be relaxed. Other steps include the easing of restrictions on meat imports, the sale of government food stocks and changes in grazing land regulations.

These plans may gradually help to redress the agricultural demand-supply imbalance. But they should be linked to additional, basic changes in the nation's food supply policy.

We have long held that a significant contribution to lower food prices and to the national welfare can be achieved by a redirection of the federal government's farm-income support programs. Instead of continuing to use various governmental devices that bid up farm prices, the government should, when necessary, utilize a system of direct payments to farmers that reflects the difference between market prices and a fair return.

Moreover, millions of dollars in federal payments no longer should be lavished on profitable agribusiness type farms, often owned by big corporations and wealthy absentees. A reasonable and enforceable payment ceiling, considerably lower than the present limitation, should now be placed on the income-maintenance benefits allowed to any farm producer.

Such changes in the federal farm program and to more fairly distribute farm-income would both help to hold down food prices support payments. However, while urging these changes, we reject the misguided efforts of those who indiscriminately seek to dismantle all farm programs. We recognize that the unique problems of agriculture still require government efforts to increase agricultural productivity to insure a sufficient supply of food and fiber to meet America's needs and to underwrite a fair and stable return for American farm families.

Other examples of potentially fruitful ways to reduce food costs are emerging from studies undertaken by the staff of the National Commission on Productivity. They cite savings that are possible from more uniform federal and state regulations of food packaging and standards, while still safeguarding the consumer. They point out that large savings also can come from the introduction of innovative transportation equipment and other improvements in the food delivery system. Another example, among many, is the possibility of an increased supply of seafood products—and stabilized retail prices—with a greater governmental research and devel-

opment effort. For 10 years, the American seafood catch has stagnated, while imports soared to nearly $1 billion by 1971.

Such measures and changes in federal agricultural policy can gradually increase America's food supply and help to stabilize food prices. But they can be of no help in the next few months. Yet continuing, sharp increases in retail food prices will undermine the entire effort to combat inflation.

However, the prices of raw agricultural products remain exempt from any stabilization controls or restraint, as a result of action by the Administration in 1971. This special privilege for farm prices was unfair when it was established. It is even more inequitable now.

The special exemption of the prices of raw agricultural products from the Phase III stabilization program should be removed. Temporary controls on the prices of raw agricultural products are necessary for at least the next few months, to help stabilize food prices from the primary producers to retail stores.

EXCERPT OF STATEMENT BY I. W. ABEL, CHAIRMAN, AFL–CIO ECONOMIC POLICY COMMITTEE TO THE JOINT ECONOMIC COMMITTEE, MARCH 16, 1973

FOOD PRICES

For almost all American families food is the largest single budget item. If the fear of continuing inflation is to be stilled, the price of food must be stabilized effectively.

No American housewife requires a professional statistician to dramatize how rising food costs have been undermining her family budget. While the Consumer Price Index as a whole went up 3.7% between January 1972 and January 1973, the price of food consumed at home rose 7.6%; the retail cost of meat, poultry and fish soared 12.8%. Between February 1972 and February 1973, the wholesale price of farm produce jumped 25%—forecasting further increases in retail food in coming months.

While rising food prices distress all consumers, the greatest burden falls inevitably on families with moderate and low incomes. In 1971, according to the Bureau of Labor Statistics, food costs accounted for over 27% of all outlays of an urban family of four with a budget of $7200. That percentage is higher today. For millions of families with still lower incomes the impact of soaring food prices is even more painful.

Rising price tags at the checkout counter largely reflect the uncontrolled rise in the price of various agricultural commodities at a time when demand is also rising rapidly. Although farm product prices generally are highly volatile—responding quickly to changing weather and other conditions—the recent pressure of rising demand, both at home and from abroad, has sharply bid up the price of many major farm commodities.

The long-term rise in population and living standards at home and the current economic expansion in the U.S., combined with record agricultural exports, plus the exclusion of agricultural products from the Administration's stabilization program, have inevitably created demand pressures, as well as a price and profit bonanza for the sellers of those farm items in greatest demand.

According to the U.S. Department of Agriculture, uncontrolled farm product prices, as of January 15 were 21% higher than a year before, even though the prices paid by farmers for commodities, equipment, wages, interest and taxes had gone up by only 9%.

The fact that the retail food price rise during these 12 months held at 7.6% was only possible because food processors, wholesalers and distributors absorbed some of the farm price rise, the Department of Agriculture reports. With the wages of the workers who move the food supply through processing to retail store shelves held under rigorous Phase I and II controls, and with food prices but not farm product prices subject to controls, it comes as no surprise that Agriculture Department figures show that out of every dollar of price increase charged food consumers, 82 cents went to higher farm prices.

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These plans may eventually help reduce the agricultural demand-supply imbalance. But they should be linked to other basic changes in the nation's food supply policy.

We have long held that lower food prices can be achieved by a redirection in the federal government's farm-income support programs. Instead of continuing various governmental devices that bid up farm prices, the government should, when necessary, utilize a system of direct payments to farmers that reflects the difference between market prices and a fair return.

Moreover, millions of dollars in federal payments should not be lavished on profitable agribusiness type farms, often owned by big corporations and wealthy absentees. A reasonable and enforceable payment ceiling, considerably lower than the present limitation in food stamp purchases over the last nance benefits allowed any farm producer.

Such changes in the federal farm program would help hold down food prices and more fairly distribute farm-income support payments. However, while urging these changes, we reject the misguided efforts of those who indiscriminately seek to dismantle all farm programs. We recognize that the unique problems of agriculture still require government efforts to increase agricultural productivity to insure a sufficient supply of food and fiber to meet America's needs and to underwrite a fair and stable return for American farm families.

Other examples of potentially fruitful ways to reduce food costs are emerging from studies undertaken by the staff of the National Commission on Productivity. They cite possible savings from more uniform federal and state regulations of food packaging and standards, while still safeguarding the consumer. Large savings could be realized from the introduction of innovative transportation equipment and other improvements in the food delivery system.

Another example, among many, is the possibility of an increased supply of seafood products—and stabilized retail prices—with a greater governmental research and development effort. For 10 years, the American seafood catch has stagnated, while imports soared to nearly $1 billion by 1971.

Such measures and changes in federal agricultural policy can gradually increase America's food supply and help stabilize food prices. But they will be of no help in the next few months.

Continuing sharp increases in retail food prices will undermine the entire effort to combat inflation, but the prices of raw agricultural products remain exempt from any stabilization controls or restraint. This special privilege for farm prices was unfair when it was established. It is even more inequitable now.

[From the Washington Post, Mar. 19, 1973]

THE HARRIS SURVEY—ALARM GROWS AT INFLATION, FOOD

(By Louis Harris)

The American people are growingly alarmed over what they believe is another inflationary boom, triggered by higher food prices. This, in turn, has raised concern over the possibility of another recession by next year at this time, although a majority is now convinced the most recent recession is over.

A record high 74 per cent feel that "prices of most things I buy are now rising faster than they were a year ago." The trigger for most of this concern has been the rapid increase recently of food prices. Recently, food costs for the average American consumer rose more than they had over any similar period in the past 20 years.

Clearly, the central finding from this Harris Survey of the mood of the consumer is that people still feel they were burned by inflation during the 1969–72 period. They appear to be much more willing to take their chances with tighter governmental controls over both prices and wages than on a relatively less controlled economy. By an 82-to-13 per cent margin, the public opts for "receiving less in the way of pay increases provided price rises are kept in line" over a situation characterized by "fewer controls over prices, but with the chance to receive higher pay increases."

A nationwide cross section of households across the country was asked between Feb. 14 and Feb. 17:

Do you feel the prices of most things you buy are rising more rapidly than a year ago, about as rapidly as they were then, less rapidly, or are they going down?

[In percent]

	Up faster	As fast	Less fast	Going down	Not sure
February 1973	74	22	3	--------	1
December 1972	49	39	10	--------	2
March 1972	59	28	11	--------	2
March 1971	73	22	4	--------	1

In the short run, people feel the recession is over. The cross section was asked:

Do you feel the country is in a recession today or not?

[In percent]

	Is	Is not	Not sure
February 1973	33	51	16
December 1972	36	45	19
March 1972	48	33	19
March 1971	65	21	14

However, concerns that the current boom will not last out the year were evident in the answers to this question:

By this time next year, do you think the country will be in a recession or not?

[In percent]

	Will be	Will not	Not sure
February 1973	35	38	27
December 1972	26	43	31
October 1972	26	42	32
September 1972	22	44	34
March 1971	37	40	23

After a rather extended period of cautious but growing public optimism that the economy was snapping out of its long slump, most people agree that the recession has passed, but a new inflationary period has arrived. In turn, they are worried this might well spawn another recession next year.

WHO PROFITS WHEN FOOD BILLS RISE

Farmers—thanks in part to their city cousins, who are paying the highest prices ever for food—are enjoying a real taste of prosperity.

For many years, farmers were last in line when profits from food sales were divided up. Now they are getting the lion's share of the added money that it takes to meet family grocery bills in the United States.

The chart on this page helps to tell the story.

A market basket of food produced on U.S. farms—enough to supply the average urban household for a year—now costs $1,375. That is $102 more than a year earlier. Of the increase, farmers are getting $85. The middlemen who process, distribute and sell the food are getting only $17.

All signs point to a continuing escalation in grocery bills.

Prices paid for cattle, hogs, corn, wheat, chickens and many other farm products have been in a steep rise. On March 7, soybeans sold for delivery later in the month brought $7 a bushel—twice the price of a year ago.

A NEW BLOW

The Government's wholesale-price index, published by the Department of Labor on March 8, reported a staggering 4.6 percent increase in farm products in February. Industrial goods were up by 1.1 percent.

The index for all commodities at wholesale increased by 1.6 percent during a single month when adjusted for seasonal variations. It was a new blow to Administration hopes of bringing inflation down to an annual rate of 2.5 percent by the end of 1973.

In 1972, net farm income of all U.S. farmers hit a record 19.2 billion dollars, an increase of 3.2 billion over 1971. That meant, on the average, about $1,200 more income per farm.

This new prosperity for farmers is due in part to booming export sales of U.S. commodities.

But much of it is coming out of the pockets of city folk. They are having to spend more dollars for food that might otherwise go for recreation and things that make life more pleasant. One woman, wheeling a cart down a supermarket aisle, put it this way: "I told my husband and the boys, if they want to keep on eating steak, that's fine with me, but something has to go—the motor bike, or the boat, or the new skis."

For low-income families and retirees on a fixed income, with little discretionary buying power, the food-price squeeze is painful.

In early March, there were reports in Washington that President Nixon was considering a possible freeze on prices of raw farm products at current levels. This was flatly denied by the White House on March 7.

One break for shoppers: Wholesale butter prices dropped sharply March 9 as the price-support level was reduced.

MEAT IN SPOTLIGHT

Fresh meat is leading almost all other items in the parade of rising food prices. Some cuts of beef and pork are selling for 20 to 60 cents more per pound at the meat counter than a year ago.

A food chain in San Francisco reported porterhouse steak selling at $1.99 a pound, up 30 cents from a year ago.

A Detroit market posted an increase of 49 cents a pound on pork chops, and its bacon was selling at $1.19 compared with 89 cents a year earlier.

Ground beef—the economy meal—was up by 30 cents a pound in Atlanta, 15 cents in San Francisco, 20 cents in Washington, D.C.

Supermarket officials told staff members of "U.S. News & World Report" that there was no quick relief in sight from rising grocery bills.

"Cost of meat and other foods will continue to climb, because our wholesale costs are still rising," said a chainstore official in Atlanta.

Homemakers trying to trim spending for groceries by turning to chicken and ground beef are finding that they are being outflanked by rising prices for these items.

PURCHASES: LITTLE CHANGE

In most of the cities checked, shoppers were reported to be buying about the same amount of meat, despite rising prices.

"We had been expecting prices to level off at this point," said a food-chain spokesman in Chicago, "but our wholesale cost of meat is up by 40 per cent since mid-November. We see nothing that would lead to lower prices soon."

A food-chain executive in California reported:

"In December, 1971, we were paying 55 cents a pound for carcass beef. Now we're paying 70½ cents. We were paying 27 cents a pound for chicken then. Now we're paying 43½ cents."

A San Francisco supermarket spokesman said supplies of fresh produce and eggs were improving, permitting price reductions for those products.

An official of the chain checked in New York City said, "There is no way to put it other than prices are going up right across the line and we are paying more for beef, canned peaches, bread, eggs, soap powder and almost every item we buy."

Here and there over the country, consumer groups are getting organized to combat rising food costs. In the Los Angeles suburb of Simi Valley, the head of a group called FIT—Fight Inflation Together—said:

"We must cut down on demand. When meat managers note a drop in gross sales, they will recognize the power of the consumer. In turn, they will be forced to order less . . . with the effect ultimately getting back to the source of supply—the cattlemen and speculators."

THE PRICE SPIRAL

Over all, food prices rose by 4.3 per cent in 1972. That will be surpassed by an increase of 6 to 6.5 per cent officially forecast by the U. S. Department of Agriculture. Some economists say the rise could balloon to as much as 8 per cent.

The 1973 price spiral is expected to follow this pattern:

Much of the rise in food costs will come in the first three months. Through April, May and June, prices will go up less steeply. Summer probably will see another upturn, followed by a slower-paced increase in the last three months.

Beef and pork were responsible for most of the 1972 rise in grocery bills. Steaks, roasts, other cuts of beef went up by 9.4 per cent. Chops, roasts, ham, bacon, other pork items jumped by 15.8 per cent. All other foods increased by only 2.7 per cent in 1972.

Similar trends are forecast for 1973.

Record-high prices paid for live beef cattle in recent days—up to $45 a hundredweight in Omaha—have not been fully passed on to retail meat counters. Nor in the months ahead will there be enough cattle coming to market to reduce prices appreciably.

The number of hogs being fattened on U. S. farms is at a relatively low level. Those available are bringing record-high prices.

On March 6, $41 a hundredweight was paid at Peoria, Ill. In the last half of 1973, hog numbers are expected to increase and bring some easing of prices.

THE FARMER'S SHARE

Even with the big run-up in farm prices, the farmer still gets only one third of each dollar American families spend on food. His share came to 33.4 cents in 1972, as shown by a chart on page 21. That compares with 42.2 cents in 1971.

As shown on the chart and table on page 22, the farmer gets a higher proportion of the retail price of some foods than others. On beef, for example, his share is much higher than bread.

The current farm prosperity is tempered by a number of factors. It is not evenly spread among all those who till the land. The operator with a small, marginal spread does not have the volume of sales needed to offset production costs, which rose even faster than the price of food at the supermarket. They soared 7 per cent in 1972, and are expected to increase faster this year.

The farmer who has to buy soybean meal to feed his livestock is hurt, rather than helped, by this crop's sky-high price. Beef calves that must be bought for feed lots are bringing staggering prices.

The worst harvest season in years hit Midwest and Southern farms this past autumn, and hundreds of millions of bushels of crops were lost in the fields instead of bringing high market prices.

Even so, the majority of the nation's farmers are enjoying a boom that few would have dared to hope for a couple of years ago.

[From the New York Times, Mar. 11, 1973]

EGGS, STILL A BIG FOOD BARGAIN LEAD MEATS IN PRICE RISE HERE

(By Will Lissner)

Eggs, still—despite their price—the biggest bargain on the food list, led seven meat cuts in a new price advance last week and market analysts said they feared that the day was coming soon when eggs would no longer be widely available as a substitute for high-priced meat.

The latest figures show that laying flocks are still dwindling because, with feed prices going higher, farmers are culling out the older and less productive hens.

Laying flocks were estimated at 309 million in 1965 and were built up to 331 million in 1970 and 328 million in 1971. The total dropped 8 per cent, to 300 million, last Jan. 1, and the Feb. 1 estimate showed a further drop. Partly offsetting the decline in the number of laying hens, however, has been a rise in productivity from 57 eggs a day for every 100 hens in 1969 to 61.8 on Feb. 1.

MORE PRICE RISES LIKELY

Large Grade A white eggs, the size most plentiful at present, sold for 55 to 59 cents a dozen on Aug. 15, 1971, when President Nixon introduced price stabilization. They sold for 77 to 81 cents last Jan. 1. During the weeks of Feb, 20 and Feb. 26 the price was mostly 65 to 69 cents in New York supermarkets, according to the price reports of the New York State Department of Agriculture.

Last week the price rose to 69 to 71 cents a dozen and the movement of wholesale prices indicates that this week the retail price may advance further. On Jan. 2 the wholesale price was 55 to 57 cents. It dropped to the year's low on Feb. 9, 42 to 45 cents a dozen. On March 2 the price rose to 46 to 49 cents and last Friday to 51 to 54 cents—a price range that may be reflected at the retail level in a week.

But even at present retail prices of around 70 cents a dozen, eggs provide essential protein at 46 cents a pound—a price only some fish items compete with. Chickens have risen 6 cents a pound in some stores to 55 to 65 cents a pound for broilers and fryers and 59 to 69 cents a pound for roasters.

PORTERHOUSE UP AGAIN

Among the meat cuts that were high and moved higher last week were porterhouse steak and rib roast among beef items, loin and shoulder chops among veal items and rib and shoulder chops among lamb items. In many stores the increase on these cuts were 10 cents a pound. Sliced bacon went up 10 cents a pound and is selling at $1.39 a pound in surveyed stores.

Staple vegetables like potatoes, yellow onions and green cabbage were costlier last week than the week before because stocks, meager to start with, were diminishing and the new crop was not yet available.

What did Nathan Herschberg, who provides consumer information from the State Department of Agriculture, eat last week "Fish, turkey and cheese, with a lasagna made with a little ground beef," he reported. "We decided to have a meatless day and we almost had a meatless week."

HOUSEWIVES ORGANIZE MEAT BOYCOTT

(By Robert Mott)

It doesn't have an official name yet, nor a board of directors, but an ad hoc boycott of meat products is clearly in progress in the Washington area.

Spurred by the initiative of Rep. William R. Cotter (D-Conn.) and a California-based group called FIT (Fight Inflation Together), a number of area residents are knocking on doors, mimeographing leaflets and planning supermarket picket lines this weekend to encourage consumers to declare a moratorium on meat-eating during the first week in April.

"Think fish" and "Be choosy for cheese" and "Be for beans" are sample slogans dreamed up by two neighbors, Sibbie O'Sullivan and Tina Johnson, who live in a large apartment complex on Southampton Drive in Silver Spring.

"We're just going door-to-door and telling everybody what we have in mind," Mrs. Johnson said. "So far the response has been very positive. Although many residents balked at joining picket lines, she said, every one of those contacted agreed to join the partial boycott.

"It's a very simple thing we're asking, and everybody thinks they can do that much," she said.

Martha Robinson, of the Consumer Federation of America, said many members are sympathetic, but that "one of the problems with boycotting . . . is that normally they don't last long enough and are not enough in gear to produce a result."

A survey of national food chains by The Washington Post confirmed earlier industry reports that meat sales are down and fish and cheese sales are up. Specific area figures were not available, though a spokesman for the Giant chain confirmed a decline in recent meat sales.

But some area residents are concerned that fish and poultry prices are chasing meat at an alarming pace. "It makes me literally sick to go into a grocery store," Karen Helfert, of Rockville, said. "You can't go to fish—some of it is already $1.98 a pound. And uncut chicken is 59 cents—a year ago you could get it for 25 cents."

A delegation of area housewives visited Rep. Cotter's office yesterday to pick up a fresh supply of leaflets urging consumers to boycott meat during the first week of April, and to send their cash register receipts to President Nixon with their names and addresses on them.

So far their campaign has functioned largely on the word-of-mouth level, with Cotters office acting as a go-between for informal groups in Silver Spring, Oxon Hill, Alexandria and Montgomery County.

Mrs. Helfert, a member of the Citizens Information Committee in Montgomery County, said the organization had not yet formally adopted a boycott policy but that "if one organization would be a rallying point, I know of a number of others that would jump on the bandwagon.

Among them are the D.C. Federation of Citizens' Associations, the D.C. Federation of Civic Associations and the Virginia Citizens' Consumer Council, which voted this week to support the April week-long boycott.

[From the Washington Post, Mar. 15, 1973]

SURVEY SHOWS HIGH PRICES DRIVING BUYERS FROM BEEF

(By James L. Rowe, Jr.)

High prices finally seem to be driving the nation's consumers away from beef, an informal survey of some of the nation's largest supermarket chains show.

One large chain said that its beef tonnage movement dropped nearly 10 per cent in the last few weeks. Others reported declines in beef sales, but were unable to estimate precisely their extent.

The National Association of Food Chains reported that all but one of the 16 chains reporting in an informal survey said beef sales dropped during February, with the average decrease about 4 per cent.

The reports could be an early sign that shoppers are turning to other meats and to meat substitutes such as fish and cheese. But many government and private economists greeted the results of the survey with skepticism.

"We'd like to be able to confirm that evidence," an official of the Cost of Living Council said, "but we cannot." He said that if consumers were purchasing less beef, supermarkets would buy less—which should reduce rates of slaughter and cattle prices.

C. W. McMillan, executive vice president of the American National Cattlemen's Association, said that last week's slaughter of 636,000 head of cattle was the largest so far this year, up 1 per cent from the 627,000 head killed the week before and 6 per cent higher than the 601,000 head slaughtered at this time a year ago.

The Agriculture Department said yesterday that the rate has not tapered off much this week, either. For the first three days of the week, 349,000 head were killed, down a little from last week's 356,000 and last year's 353,000. As for steer prices, they have increased about $2 a pound in the last week.

Both McMillan and Cost of Living Council officials said that if consumers were turning away from beef, there should be live cattle backed up in the "pipeline." But the heavy slaughter and strong prices indicate that this is not occurring.

An official of one food chain that reported a significant drop in sales admitted, "We're confused. We look at our sales figures and look at the slaghter figures and we can't explain it."

Food chain association officials said, however, that their conversations with members this week continue to confirm the reports they got last week—consumers are buying less beef.

Esther Peterson, consumer adviser to the president of Giant Food, Inc., said the $600 million chain has had a drop-off in beef sales coupled with a large increase in fish sales. Mrs. Peterson said Giant had added extra manpower to its fish division and was purchasing hundreds of pounds more of fish than normal.

Another large firm that consented to be identified, the $3.7 billion Kroger Co. of Cincinnati, said that its beef sales dropped somewhat last month but returned to normal after chicken prices went up. Broilers have risen about 7.5 per cent since mid-February.

Jewel Companies, a $1.8 billion Chicago-based food chain, said it has experienced consumer resistance to beef prices but said its sales figures are distorted because Jewel has been having a large number of steak and roast sales recently.

"We're facing consumer resistance when beef prices are at normal levels and heavy buying when we have sales," a Jewel spokesman said.

Despite protests since beef prices began rising rapidly last year, there has been no previous evidence that consumers were doing anything more than grumbling.

Officials cite a number of reasons for the continued heavy demand for beef, including a large increase in employment, rising real earnings, the increase in Social Security payments last fall and an increase of $3 billion in food stamp purchases over the past five years from $500 million to $3.5 billion.

[From the Los Angeles Times, Feb. 23, 1973]

MEANY LINKS WAGE HIKES TO FOOD COST

(By Harry Bernstein)

MIAMI BEACH.—AFL–CIO President George Meany said Thursday that, unless President Nixon could effectively control food prices, American workers would not go along with efforts to keep wage increases below the 5.5% guideline.

What is required, Meany insisted, are firm controls on food prices, including prices of raw agricultural products, even if they require "the setting up of a big bureaucracy."

The Nixon Administration has contended that such controls on food prices are not feasible because they would be impossible to administer, and would lead to shortages, rationing and ultimately black marketing.

Meany scoffed at that, saying Mr. Nixon is "a very strong President, who has complete control of his own party, complete control of this Administration, and at the present moment, he practically dominates Congress.

"In that position, you can do a lot of things, including controlling food prices."

The President has said the Administration has "a stick in the closet" for those who seek unjustified wage or price increases. Meany said, "So let them have a stick in the closet for the farmers too."

On Wednesday Mr. Nixon predicted that retail prices of food would continue to rise for several months but he said there would be relief later in the year.

On Thursday, the government reported that food prices (groceries and restaurant meals) soared 2.1% in January, and overall, the cost of living rose 0.3%.

At a meeting of the AFL–CIO executive council here, Meany said that "if food prices continue to go up, it is quite obvious that it will not be fair to require workers to hold wage increases to 5.5%."

Rigid guidelines for wages were ended in Phase 3 of Mr. Nixon's economic program, but the current "voluntary" controls have what Administration officials called the "clout" of government behind them.

The Administration generally expects wage increases to stay within the 5.5% guideline. Their expectations will be tested in the next few months when contracts covering nearly 5 million workers come up for renegotiation.

Despite the labor leader's firm stand that wages are going to have to keep up with the cost of living, there was no indication that the AFL–CIO and Mr. Nixon differed dramatically on the system the Administration is using to hold down wages and prices.

PHASE 2 PROTEST

Meany and three others of the now-defunct Pay Board's five labor members quit in protest against what they called the unfair administration of Mr. Nixon's Phase 2 economic controls.

Meany, however, cooperated in establishing the procedures for Phase 3, including the idea of "voluntary" compliance with the guidelines.

But the AFL–CIO leader Thursday denounced the Administration's attempts to control food prices so far as "just a series of statements of what they are going to do and what they expect, and I am not optimistic that they're going to succeed."

So far the Administration's plans for holding down food prices include an attempt to increase food supplies by allowing greater food imports and by encouraging farmers to raise more.

If the Administration fails to hold down food prices, Meany insisted, wages must rise because "otherwise who is going to be able to buy the goods if prices keep going up and up and up and wages are frozen?"

And, Meany warned, even if food prices do begin to stabilize, as Mr. Nixon has predicted, labor will still have "some catching up to do" in its contract negotiations.

One of the first major unions to come up for negotiations this year is the United Rubber Workers of America. That union's president, Peter Bommorito, said in an interview here that his union expected to get a 6% wage increase in the new contract's first year.

However, the rubber workers did not have a cost-of-living clause in their last contract

agreement, and it may be this kind of "catching up" that Meany referred to, as well as the guideline deviations which the government will allow without using "the stick in the closet."

Meany reiterated the AFL-CIO's opposition to Mr. Nixon's proposed budget and the "dismantling of social programs," and said that the new secretary of labor, Peter J. Brennan, "agrees with us across the board" on this and other issues.

"Mr. Brennan (former head of the New York Building Trades Council) is a trade unionist and I think that he is going to be a trade unionist first and a secretary of labor second," Meany said.

[From the Washington Post, Mar. 1, 1973]

GROCERY PRICE RISE STEEPEST SINCE '47

A typical American family's annual food bill jumped by 2.7 per cent in January, the sharpest increase since the government began keeping monthly reports in 1947, the Agriculture Department reported yesterday.

The boost, attributed to soaring prices of raw agricultural products exempt from administration controls, prompted department economists to predict that retail grocery prices might rise even faster in 1973 than the 6 per cent to 6.5 per cent they previously had estimated.

The department's monthly report on the cost of a "food market basket" for a typical statistical family of 3.2 persons showed record increases in January in the average retail costs of pork—94.1 cents a pound—and choice grade beef, which hit $1.22 a pound.

Also contributing to the increase were higher prices for poultry, eggs and fresh vegetables.

The average annual family grocery bill rose to a record $1,375 last month, $37 higher than in December and a boost of $102 over the same month a year ago.

All the January increase was in the form of higher prices paid to farmers and passed along to the consumer. Grocery prices would have been even higher in January if the middlemen had increased rather than reduced their profit margins.

Don Paarlberg, the department's chief economist, said prices are likely to get worse at the supermarket in February.

AMENDMENT NO. 44

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

Mr. KENNEDY. Mr. President, I am submitting this amendment for consideration during the debate of the Economic Stabilization Act Amendments of 1973 (S. 398), paralleling an amendment made in the Committee on Banking, Housing and Urban Affairs with respect to food prices. The intent of the amendment is simply to obtain clear data on price increases in the health insurance industry, including what portions of these rapidly rising premiums can be attributed to increased costs of physicians and hospital services, broadened benefit packages, as well as increased administrative costs and profits.

During phase II, the price commission granted sizable premium increases to numerous insurance carriers affecting millions of Americans. I believe it is essential for the Congress to maintain a particularly close surveillance in the area of health insurance premiums in the light of this experience.

I urge my colleagues to consider these amendments as a means to this end.

AMENDMENT NO. 45.

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

Mr. BELLMON submitted an amendment, intended to be proposed by him, to Senate bill 398, supra.

AMENDMENT NO. 46

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

Mr. TAFT. Mr. President, today I am offering an amendment to place a ceiling on Federal expenditures for fiscal 1974 of $268.7 billion, the President's proposed budget level. My amendment also includes provisions which give Congress a chance to override any impoundments the President might make because he feels that they are necessary to keep government spending within the limits set by the ceiling. I request that it be printed at this point in the RECORD.

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

AMENDMENT NO. 46

On page 5, after line 14, insert the following:

LIMITATION ON EXPENDITURES AND NET LENDING FOR FISCAL 1974

SEC. 9. (a) Expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government shall not exceed $268,700,000,000.

(b) If the President makes reservations from expenditure and net lending, from appropriations or other obligational authority heretofore or hereafter made available in order to effectuate the provisions of subsection (a), he shall transmit to the Congress a separate notification of each such reservation made with respect to any single budget account, together with a detailed justification therefor, within ten days from the date on which such reservation was made. If, during a period of thirty calendar days of session of the Congress following the date on which the notification is transmitted, there is passed by either the Senate or the House of Representatives a resolution stating in substance that the Senate or the House of Representatives, as the case may be, does not approve such reservation, with respect to such account, the President shall within ten days make available for obligation the amount of funds reserved pursuant to this section with respect to such account. For the purposes of this paragraph, in the computation of the thirty-day period there shall be excluded the days on which either the Senate or the House of Representatives is not in session because of adjournment of the Congress sine die.

(c) For the purposes of this section the term "budget account" means any appropriation account or other account granting obligational authority including, but not limited to, contract authority, authority to spend public debt receipts, and authority to spend agency debt receipts.

(d) The provisions of sections 910–913 of title 5, United States Code, shall apply to the procedure to be followed in the Senate and House of Representatives in the exercise of their respective responsibilities under subsection (b) in the same manner and to the same extent as such provisions apply to the procedure followed in the case of reorganization plans; except that references in such provisions to a "resolution with respect to a reorganization plan" shall be deemed for the purposes of this section to refer to a resolution of disapproval under subsection (b).

(e) The President shall not establish separate ceilings on expenditures or net lending for any budget account which will prevent the obligation of all funds made available for obligation pursuant to this section.

Mr. TAFT. Mr. President, there is no more appropriate legislation than the Economic Stabilization Act for an amendment to place a ceiling on Federal expenditures. The experience of the late 1960's indicates what happens when government expenditures substantially exceed even full employment budget receipts. Most economists agree that this type of overstimulation of the economy was probably the most important reason that wholesale prices shot upward by more than 3 percent from 1967 to 1969.

We cannot let this happen again, particularly at a time when domestic price stability is vitally needed to help reverse the deteriorating competitive position of the United States in the international economy. We cannot permit the phase three effort in the private economy to be nullified by an irresponsibly high level of Government spending.

Yet there is considerable danger that this may happen. The President's proposed budget is a full employment budget, but it is still more than $19 billion below what the budget totals would have been if the programs currently in effect were allowed to grow at an unconstrained rate during fiscal 1973 and fiscal 1974.

There are certain to be great pressures to spend at a rate exceeding that which the President has proposed. This simply cannot be done without fanning the fires of inflation, unless we increase taxes to pay for greater expenditures. In view of the tremendous public opposition to this move, I doubt seriously that such a tax increase is likely to be passed very quickly.

Therefore, I have come to the conclusion that a concentrated congressional effort to hold down the budget to the level proposed by the President is the only alternative to government-pull inflation. We may not agree with the President's priorities, but we should stick to the overall spending level which he proposes. The spending ceiling which I am proposing today would serve as a basis for focusing congressional efforts on that goal.

When the Banking, Housing and Urban Affairs Committee was considering the devaluation bill, and again today on the floor, the senior Senator from Wisconsin discussed an amendment to set a budget ceiling of $265 billion for fiscal 1974. Despite my concurrence in the belief that budget control for the immediate future must be one of our highest priorities, I voted against this amendment in committee for two reasons.

First, the $265 billion figure may be unrealistically low. I hope not, but it is $3.7 billion below what the President wants to spend, which means that a total of $3.7 billion more in budget cuts than those proposed by the President would have to be made. Senators on both sides of the aisle have already expressed their disapproval with many of the proposed cuts and indicated their intention to restore these cuts. The only way to do this and still keep the budget in line would be to cut expenditures in some budget categories by much more than the President has requested.

I believe that achieving a congressional consensus to make cuts of this type which are large enough to keep the fiscal 1974 budget within the President's proposed spending level is going to be an extremely difficult task. If we mandate an

additional $3.7 billion of required cuts, this task will become even more difficult.

Nevertheless, the effort should be made despite its formidable nature if such an effort is likely to contribute significantly to inflation restraint. The administration does believe, however, that $268.7 billion can be spent without generating inflationary pressures. We should not complicate our job significantly by adopting a budget ceiling much lower than this figure unless we are extremely confident that the administration's assessment is wrong. I have not seen convincing evidence to this effect.

Of course, a budget ceiling at the President's proposed level of spending would not prevent the Government from spending less than this amount. Congress could still limit the budget to $265 billion, or any other level below $268.7 billion, if it decides that this is desirable and it is able to agree upon cutbacks of sufficient magnitude.

In any event, my most serious objection to the amendment proposed in committee was based on its design rather than on the budget number. Congress rejected a proposed spending ceiling last fall because it would have given the President unlimited authority to make whatever fund reservations he believed were necessary to keep the budget within the limits required by the ceiling. A spending ceiling such as the one proposed last fall, or the one proposed by Senator PROXMIRE in committee, is a license to impound funds. The Office of Management and Budget can say that it must make impoundments to fulfill its constitutional obligation to faithfully execute the spending ceiling law.

In fact, an OMB official indicated to my staff that in view of the uncertainty of appropriations totals until appropriations bills are actually passed, OMB might try to help effectuate a spending ceiling by reserving funds from the very beginning of the fiscal year. The lower the spending ceiling figure is set, the more massive these funds reservations are likely to be.

I do not believe that any spending ceiling should be enacted which could be used as a mechanism for a further erosion of congressional authority and responsibility. One of Congress primary duties is to set the Nation's budgetary priorities. A congressional compromise of this function, in the name of controlling inflation or any other cause, would create a serious imbalance between the powers of the legislative and the executive branches.

My amendment would give Congress a proper participatory role in determining which fund holdbacks will be made to effectuate the spending ceiling if such action proves necessary. The President would notify Congress within 10 days after he has held funds in reservation for this purpose. At that time he would supply Congress with a detailed justification for taking that action. Either House of Congress would then be able to override the fund reservation by passing a "resolution of disapproval" within 30 calendar days of session of the Congress, not including days on which either House is in adjournment sine die. If such a resolution were passed within this time, the President would have to release the funds in question.

A "resolution of disapproval" would be afforded expedited congressional treatment, so that a final vote on any such resolution could occur before the allowable time period expires. A motion to discharge a committee of its responsibility to consider the resolution, if made by a proponent of the resolution, would be in order 10 days after the resolution has been referred to committee. Debate on such a motion would be limited to 1 hour, and no amendments or motions to reconsider would be in order. Once the resolution is reported out of committee, a motion to consider it would be highly privileged and not subject to debate. Debate on the resolution would be limited to 10 hours, and a motion to recommit it would not be in order. Motions to postpone consideration of the resolution, and appeals relating to Senate or House procedural rules, would be decided without debate.

These are the same provisions as those in the Reorganization Act.

These provisions insure that the enactment of my spending ceiling amendment will not result in a surrender of congressional power to the executive branch. Yet the amendment will not lock OMB into an inflexible "meat-ax" approach to budget control. OMB could still propose to reserve funds in any manner it deems appropriate for complying with the ceiling, but Congress would have a chance to prevent the implementation of such proposals. Congress would be able to prevent OMB from using the budget ceiling as a pretense for making unjustifiably extensive fund reservations or major alterations in congressionally established priorities. At he same time, Congress spending actions would clearly become more visible. As a result, it would assume more responsibility for these actions in the public's eyes.

It is true that much of the budget for the coming fiscal year can no longer be controlled by congressional decisions. If expenditures for uncontrollables are higher than predicted, it may be inevitable to avoid the need for adjustments in order to stick within the proposed budget ceiling, particularly since 75 percent of the budget is now considered uncontrollable. Congress should work with OMB to keep fully abreast of the actual rate of expenditures for uncontrollables, so that as much time and flexibility as possible will be available for making such adjustments.

Of course, our major effect on this year's budget totals will come through our actions on appropriations bills. I urge the Congress to act promptly on these bills in a maner which would leave no doubts that any fund reservations on the basis that the 93d Congress is spend-crazy are unjustifiable.

I do not believe that the budget ceiling approach should be the total and permanent answer to Congress problems with budget control. It is essential that Congress move immediately to enact reform proposals which would end our fragmented method of considering the budget. If Congress would consider the budget as one unified document, it would be in a much better position to make responsible spending decisions than it is at the present time.

Nevertheless, the need to avoid inflationary Government spending is too great now to wait for comprehensive congressional reform. I believe that my amendment will prove to be a major step toward insuring that this need will be met, without further tipping the balance between Congress and the Executive, during the interim period in which Congress considers more fundamental budget reforms.

AMENDMENT NO. 47

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

Mr. STEVENS submitted an amendment, intended to be proposed by him, to Senate bill 398, supra.

AMENDMENT NO. 48

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

Mr. MOSS submitted an amendment, intended to be proposed by him, to Senate bill 398, supra.

AMENDMENT NO. 49

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

Mr. MATHIAS submitted amendments, intended to be proposed by him, to amendment No. 22, proposed by Mr. CASE to Senate bill 398, supra.

NOTICE OF HEARINGS ON CERTAIN BILLS

Mr. JACKSON. Mr. President, on March 27, 1973, at 10 a.m., in room 3110, Dirksen Senate Office Building, the Senate Interior and Insular Affairs Committee will conduct a second and final day of hearings on pending legislative measures proposing a new policy for the granting of rights-of-way across the Federal lands. This hearing is a continuation of the hearing held on March 9, 1973. Measures to be heard are:

S. 1081—(JACKSON).

S. 1056—(FANNIN).

S. 1040—JACKSON and FANNIN by request, section 122.

S. 1041—JACKSON and FANNIN by request, title IV.

NOTICE OF HEARING ON FARM AND RELATED PROGRAMS

Mr. TALMADGE. Mr. President, the Committee on Agriculture and Forestry has just completed 8 days of hearings on the farm and related programs with approximately 112 public witnesses. On Thursday, March 29, the committee will hear the Secretary of Agriculture present the recommendations of the administration. The hearing will be in room 324, Russell Office Building, beginning at 10 a.m.

SCHEDULE OF HEARINGS ON THE NATIONAL WATER COMMISSION REPORT

Mr. CHURCH. Mr. President, on February 26, 1973, I advised the Senate of my intention to schedule early hearings before the Water and Power Subcommittee of the Interior Committee to take testimony on the forthcoming report of the National Water Commission. I have

now received a letter from Chairman Luce of the Commission advising me of his schedule for completion of the report.

A hearing has been scheduled for June 28, 1973, to receive the testimony of the Commission regarding its report, and another hearing for July 17 for the Water Resources Council, composed of the Federal agencies which have water resources programs, to present its views.

The Commission's report will be completed in time for these hearings. Because of the time necessary for printing and distribution, it will take somewhat longer to make it widely available to the public. For this reason and to insure adequate time for non-Federal witnesses to review the report and prepare their comments, I do not intend to schedule further hearings before the August adjournment. I wish to assure Senators, however, that open hearings will be scheduled after the adjournment to provide opportunities for every viewpoint to be received. At that time, the committee will have had the benefit of the background hearings with Federal witnesses, and the non-Federal witnesses will have had time to obtain the report and analyze it.

The National Water Commission's report covers many complex issues. It holds serious implications for every level of government and for the citizens of every region of the country. It is essential that congressional consideration of the policy recommendations made by the Commission be prompt and thorough. It is also essential that the Federal, State, and local officials who must manage the Nation's water resources, and the citizens who depend upon those resources are informed about the policy questions raised by the report and participate in the decisions which result.

I intend to keep Senators informed of the progress of the hearings, and I invite their comments and their assistance in compiling a good record.

ADDITIONAL STATEMENTS

CHINA AND THE UNITED STATES—ADDRESS BY SENATOR MANSFIELD

Mr. AIKEN. Mr. President, last Friday evening the majority leader of this Senate addressed the Johns Hopkins University School of Advanced International Study here in Washington on the subject "The New Congress and the New China." Senator Mansfield's address was a thoughtful and I believe an accurate presentation of the growing and bettering relationship of the United States and the Peoples Republic of China.

I ask unanimous consent that Senator MANSFIELD'S address be printed in the RECORD.

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

CHINA AND THE UNITED STATES

THE NEW CONGRESS AND THE NEW CHINA: AN AGENDA FOR ACTION

With Peking as the epi-center, the pattern of international relationships in Asia has undergone a series of earthquakes. The repercussions have been deep and pervading. When a new structure of stability emerges in the Western Pacific, it will manifest far-reaching changes. The main factors of change are already evident and I would like to list them at the outset.

(1) The tragic U. S. involvement in the war in Indochina is, hopefully, at its tortured, dragged-out end. U. S. military power is moving off the Asian mainland.

(2) Whether the character of the People's Republic has changed or our perceptions of China have improved is moot; the United States has elected, at last, to close out the undeclared war, the cold war, the proxy war, the peripheral war with the Chinese People's Republic. In turn, we have found the Chinese leadership in Peking most accommodating.

(3) In a period of spreading peace, Japan possesses the most dynamic economy in Asia The Japanese have skirted the Taiwan quicksands and have come, instead, to terms with the new China. They are now embarked on a multi-directional diplomacy built on the base of a vast foreign trade. Japan moves still, with intense awarness of the United States, but no longer in the shadow of U.S. policy.

(4) To whatever depth the wedge has been driven between the Soviet Union and China, no signs point to imminent extraction; in the circumstances, Soviet policies which appear to be in a state of abeyance in Asia, remain uncertain and enigmatic.

An ancient Chinese proverb says that "a journey of 1,000 miles begins with a single step." Actually it says a "journey of 333⅓ miles." But with an ancient American tendency to overstate anything involving China, we have even managed to inflate its proverbs. In any event, the first step and several more have already been taken in Sino-U.S. reconciliation. China and the United States are now moving rapidly towards the normal relationships of peace. This change has been produced by the combined talents of the nation's political community, as typified by the President, and of the Academic community, as represented by Dr. Kissinger. Democrats can hardly ride the President's coattails on the China question, nor, for that matter, can other Republicans. Whether Johns Hopkins can claim a share of credit for Harvard's contribution, I leave to your judgment.

It will help to understand how far we have come in Sino-U.S. relations if we look for a moment at the old China policy which was washed away in the Chou-Nixon toasts in Peking last winter. That policy was one of boycott and ostracism and it can be said to have begun with the inauguration of the People's Republic of China in Peking in 1949. At that time, we saw not the birth of new hope in China, but rather the dashing of our hopes for a durable peace after World War II. The new government was viewed as not Chinese at all, but rather as an alien outpost of a worldwide Communist conspiracy led by the Soviet Union. We told ourselves that it was bound to be shortlived, soon to be overthrown by the righteous wrath of the Chinese people.

This interpretation may seem somewhat incredible today. However, I can assure those of you who are too young to remember that it was the prevailing interpretation a quarter of a century ago. It was an interpretation spawned largely by the anxieties, fears and angers generated in the cataclysmic upheaval of the Chinese revolution.

In view of the distorted depiction of the new China in 1949 and the sense of betrayal to which it gave rise in this country, it is not surprising that American public life came to be dominated by a nationwide witch-hunt. Everywhere the search went out for the culprits "who had lost China." Educators, politicians, journalists, ministers, bureaucrats, businessmen or whatever—none was exempt from the field-day of the ideological carpetbaggers. In the atmosphere of those times, rational discussion soon gave way to a massive bi-partisan denunciation of the new China. Indeed, Democrats vied with Republicans in expressing a hostile aversion to what had emerged in Peking.

The American mood in 1949 was one of fear, frustration and fury. Spearheaded by these emotions, it is little wonder that we moved, almost eagerly, into the devastasting peripheral war with China in Korea. Simultaneously, our diplomacy plunged us into the middle of the Taiwan problem and opened the door to eventual direct military involvement in Indochina and Southeast Asia. Everywhere in Asia, "containment of China" was enshrined as a cardinal objective of our policies.

After the Korean truce and the Geneva Accords of 1954 the wings of a Sino-U.S. reconciliation beat feebly from time to time but never with sufficient strength to dispell a smoldering mutual resentment. For many years, Department of State representatives maintained intermittent contact with Chinese diplomats in Europe. At no time, however, did these meetings confront the major issues. While European and other nations were coming to terms with the People's Republic, the United States under successive Presidents, reaffirmed time and again that Taiwan was China. Insofar as this nation was concerned. Peking was then and forever consigned to international limbo.

The Executive Branch engineered and Congress financed a ring of military compacts around China's borders. Links in the chain were formed by SEATO and Mutual Defense treaties with the Republic of China on Taiwan, Japan and the Republic of Korea. With these treaties came a strengthening of the U.S. military base structure throughout Asia and the quasi-permanent deployment of tens of thousands of U.S. troops to man the bases. Tens of billions of dollars poured forth for our forces in the Far East and for massive aid and thousands of advisors to allies, new and old.

A stringent boycott was clamped on all trade with the Chinese mainland. Cultural and other contacts were shut off. It became illegal to purchase even a pair of chopsticks in Hong Kong if they were fashioned in China, or to sell the Chinese a pair of shoelaces, even by way of a U.S.-owned factory in Canada. As for our understanding of the new China, what we learned, we learned second-hand and more often than not through the distorting prisms of Taiwan and Hong Kong. An American newsman who had the temerity to journey to China in the face of an Executive Branch prohibition on all such travel was compelled, subsequently, to go to court to obtain a passport to ply his trade abroad.

It was almost as though we were determined to blot out of our ken the very existence of the Chinese mainland and what was transpiring thereon. Even when serious difficulties emerged in Soviet-Chinese relations, we were at first incredulous and suspected a joint plot aimed at the "Free World." It was only much later that we were prepared to acknowledge the reality and abandon the concept of a worldwide Communist monolith based on Moscow.

In doing so, however, we did not change our view of the government in Peking. We still saw the People's Republic as a reckless, belligerent and powerful Chinese dragon with its corralling as the end purpose of our Asian politics and programs. All the while, it is now apparent, the Chinese people were seeing themselves as a beleaguered, undeveloped country, beset on all sides by enemies who had been marshalled by the United States to undo the achievements of the Chinese revolution.

It is now known that during these years of ostracism, the Chinese stress was not on aggression beyond their borders, but on military defense of their own territory. It is now known, too, that the maximum emphasis of these years was given to production for peaceful purposes. The Chinese were preoccupied with feeding, closing and sheltering three-

quarters of a billion people and with developing a social and economic structure which would give durability to the ideology of Mao Tse-tung. In retrospect, it is clear that we expended billions in Asia to deter what we believed was an aggressive China at precisely the time when Chinese energies were being redirected away from militant revolution into militant social reconstruction.

The gash in our understanding was largely self-inflicted. To a large extent, as I have indicated, we cut ourselves off from what was happening inside China. The cost of this exercise in ostricism is incalculable. It had much to do with leading more than two and a half million Americans into the military quagmires of the Asian mainland. Thirty-three thousand Americans never returned from the hills and valleys of Korea where many died in unnecessary conflict with vast Chinese armies north of the 38th parallel. Another 46,000 Americans gave their lives in the paddies and jungles of Indochina. The $150 billion, plus, cost of the Vietnamese war pales in comparison with the tragedy of devastated lives, of a shattered national unity and of the decline in the general sense of well-being of the nation.

Nevertheless, the dollar price of this misbegotten policy is not to be ignored. The price is now stated as upwards of $150 billion for Indochina alone but the full costs of that tragic adventure will be borne by the American people well into the next century, with the present price-tag not doubling but tripling. The wastage stalks both our national and international footsteps. It casts reflections in the ever-rising prices at home and in the declining value of the dollar abroad. It has left us ill-prepared for the emerging challenges of a period of peace.

To be sure, the damage of two decades is done and cannot be undone. I have sketched this past of China policy, not in recrimination; few of us who lived through the period are completely free of responsibility for the distortions. I have sketched it in some detail because an awareness of the soil in which the old policy was planted is necessary to the cultivation of a fruitful new policy with regard to China and, indeed, all of Asia.

As I have already noted, President Nixon's visit to China last year marked a turning point. The visit, properly, brought him public gratitude and acclaim. His greatest foreign-policy initiative has made possible the narrowing of the vast chasm in Sino-American relations. The remaining gap is closing rapidly, more rapidly than anticipated in the most sanguine of expectations a year ago.

In retrospect, it is clear that the warm reaction at home to the President's initiative indicated that the nation had long-since been ready for a new look at the situation. What the President supplied was the missing ingredient—the political courage to acknowledge that we had been on the wrong track.

From the outset, Congress has supported the President's initiative. The visits of the joint Senate leadership and of the House leaders to China shortly after the President's return underscored the cohesiveness of the Executive and Legislative Branches on this issue. I should note in passing that long before Dr. Kissinger's visit, there had been exchanges between the White House and the Senate leadership with regard to the desirability of reestablishing communications with Peking. In fact, the joint effort to open the door began with the first private meeting between the President and the Senate Democratic Leader at the outset of his first Administration, in fact, in the first month.

The President, however, had to be and has been the key figure in this development. He had to put before the entire nation a revised estimate of the new China. He had to shift ritualized attitudes by 180° and he did so, in my judgment, with consummate skill.

Where, then, does Congress fit into the situation? It can scarcely be said that while the Executive Branch was pursuing the policy of ostracism, "a hundred flowers bloomed" in the Senate on the China issue. For the most part, Congress was content to ride the policy. Here and there, however, individual Members and the Foreign Relations and other Committees did make contributions to recasting public understanding and attitudes. In March 1968, five years ago in a lecture at the University of Montana, I expressed the view that:

"The basic adjustment which is needed in policies respecting China is to make crystal clear that this government does not anticipate, much less does it seek, the overthrow of the government on the Chinese mainland. In addition, there is a need to end the discrimination which consigns to China an inferior status as among the Communist countries in this nation's policies respecting travel and trade. Finally, it ought to be made unequivocal that we are prepared at all times to meet with Chinese representatives—formally or informally—in order to consider differences between China and the United States over Viet Nam or any other question of common concern."

The transition in policy during the last year or so has followed this pattern closely and the transition has had support from the Senate, almost to a man. In due course, I am confident Members of both parties and both Houses will join the expanding ranks of travellers to China. In so doing, they will familiarize themselves first-hand with the situation and, hence, sharpen their understanding of unfolding developments. The glowing reports of heretofore skeptical newspaper columnists who have recently visited China indicate that such visits can serve more effectively as eye-openers than what is usually served for that purpose at the bar of the National Press Club. China is, indeed, heady stuff and it is most desirable that, as we proceed with the rapprochement, we open our minds with understanding and prudence.

It seems to me that the time is approaching for Congress to supplement a general support of the President's initiatives on China with substantive legislative action. The 93rd Congress is just getting underway, and it can make a most useful contribution by wiping the statutory slate clean of the anti-Chinese legislation of the past two decades.

The Formosa Resolution, for example, remains on the books. It is a post-dated check which, for all practical purposes, gives a Congressional endorsement to the unfettered use of the U.S. Armed Forces to assist the Chinese National forces on Taiwan. Under the terms of the resolution, the question of how and when to use these forces is left to the sole discretion of the Executive Branch. Whatever its original validity and, in retrospect, it was a dubious one at best, the Formosa Resolution is out of keeping with the policy which the President is now pursuing in regard to the People's Republic of China. Even if that were not the case, I must express grave reservations with regard to all blank-checks drawn on the "war-and-peace" powers of the Congress. The Formosa Resolution is reminiscent, for example, of the Tonkin Gulf Resolution which "greased" the way for the Executive Branch to slide into the military involvement in Vietnam. If we have learned anything from that experience, it ought to be that the initiation of the massive use of force by the United States at the sole discretion of one branch of government is a perilous Constitutional practice.

The Formosa Resolution was originally designed for an emergency, almost as a personal accommodation to President Eisenhower; it has remained on the statute books to sustain what is now a discarded policy on China. In 1971 the Foreign Relations Committee voted to repeal the Resolution. This action was rejected in the Senate at the time by a vote of 43–40. It is time again, it seems to me, it put the matter before the Congress.

For many years, this nation helped to sustain the fiction that Taiwan spoke for the hundreds of millions in China. In support of that fiction, the United States funneled five billion dollars in military and economic aid into an island whose population at the outset of this policy was less than ten million. This financial stimulus produced spectacular economic results. It also served to pay for for an over-sized highly mechanized Army and to keep alive the hope of the National Government that these forces would one day spearhead a return to the Chinese mainland. That hope has all but disappeared in Taiwan; so, too, have the fears of a military invasion from the Mainland.

Economic aid to Taiwan has now been discontinued. Spurred by great inputs of capital, in particular, from the United States and Japan, the modernized economy of Taiwan is actually in a position to extend aid to less-developed countries in Asia, Africa, and elsewhere. Still flowing into the island, however, is U.S. military aid in the form of hardware and advice on how to use it. The United States maintains, on Taiwan, a military advisory group of 165 officers and men. In addition, more than 8,000 members of the armed forces are also there in connection with activities related to Viet Nam.

The deployment of this large force is obsolete in view of the Vietnamese truce and I am confident that the Congress will concur in a decision to withdraw it. The President and the Congress, moreover, can and should work together to bring about the termination of the military aid mission which remains as a vestige of our past involvement in the Chinese civil war.

In addition, it should be noted that over $100 million in military grant aid and credit sales for Taiwan were requested of Congress for the current fiscal year. It is difficult to see the sense in continuing to give away tens of millions of U.S. dollars in this fashion. As long as we continue to provide military aid and advisors to Taiwan, we remain imbedded in what we have now recognized to be an internal Chinese affair. There is every reason to assume that Taiwan's armed forces are capable of defending themselves. In any event, it is hard to believe that a U.S. aid program any longer constitutes the margin for survival. Ways must be found for preserving the stability of regions of the South China Seas other than for this nation to continue to arm a small segment of Chinese people on the island of Taiwan against the rest.

Although the winds of change are sweeping away past policies throughout Asia, still intact is the ring of peripheral anti-Chinese treaties. From the outset, it seems to me, the tacit assumption of these treaties is that the United States is an Asia power, which it is not, with a prime responsibility for influencing and controlling change on the Asian mainland. It is an assumption which flowed effortlessly from the decisive role of the United States in the defeat of Japan in World War II. It is an assumption which is twenty-five years old and needs to be examined afresh.

The United States is, and will continue to be, a nation with vast interests and responsibilities in the Pacific, interests which extend to the western reaches of the ocean. These interests, however, do not compel us to continue to maintain, as we do, 260,000 armed men on the mainland and off-shore islands of the Asian continent. In a time of spreading peace, forces of this magnitude appear unrelated to any valid interests of the United States. On the contrary, they seem more an expensive residue of the pre-

dominant U.S. power which the United States asserted in that region at the end of World War II.

We need to be aware that such residues do not come cheaply. They are paid for—the people of the nation pay for them—at a rate of many billions of dollars each year. Expenditures of this kind have something to do with the rising cost of food at home and the astronomical dollar price of hotel accommodations in Tokyo or Hong Kong. I reiterate this theme because there is a tendency to ignore the cost factors which are involved in anachronistic displays of our military power abroad and the relationship of this cost to the debilitated state of the economy. The presence of the flag on the beaches of Asia may be as thrilling a sight as its appearance on the moon. In both cases, however, the thrill carries a very high price. There is no national interest which requires us to maintain every major U.S. power-core abroad simply because there may have once been a vital use for it.

In my judgment, the time has long been here for a deliberate phase-out of all American installations and forces which remain on the Asian mainland. The 40,000 plus U.S. troops in Korea are largely an irrelevant luxury, twenty years after the end of the Korean war. In the same category are the 45,000 U.S. forces in Thailand. So, too, are many of the U.S. bases and installations in Japan.

Treaties are not chiseled in stone; much less are executive agreements. The Defense treaty with the Republic of China on Taiwan obviously needs to be re-examined in the light of the President's initiative with regard to Peking. In a similar vein, the SEATO Treaty has shown itself to be, in view of the involvement in Indochina, not merely an inconsequential relic of the past, but a devastatingly costly enterprise and a positive hazard to the interests of this nation.

One of the justifications for the SEATO Treaty—which, in passing, I should note, I signed at the request of President Eisenhower in Manila nineteen years ago—one of the justifications for SEATO was the high hopes that it would lead in time to collective security and regional cooperation in Asia. That hope never got off the ground, and, in my judgment, the tragic war in Indochina has now delivered a coup-de-grace to this empty pact, a view which appears to be shared by virtually all of the other signatories.

Both treaties should be re-examined as part of a through, in-depth review of our overall position in the Western Pacific which derives from many treaties, agreements, and practices. It is to be hoped that the Commission on the Organization of the Government for the Conduct of Foreign Policy and the Foreign Relations Committee will pursue intensive studies of the status of these treaties and other commitments in Asia, and elsewhere, during the current Congress.

Until the Taiwan situation is clarified, we shall probably find ourselves looking primarily to trade and other exchanges for the cement of relations with the new China. The liaison offices—extraordinary edifices—which will open soon in Washington and Peking will facilitate this process. Both countries are carrying out the pledge of the Shanghai communique, re-emphasized in the February 22 communique, to broaden mutual understanding through contacts and exchanges. From my own experience in China last year, I am persuaded that this personal interaction can be of great significance.

There is much to be learned from the culture of the old China. There is much, too, to be learned from the innovations and practices of the new China. From accupuncture to the recycling of human waste, health, pollution, across the spectrum of the current concerns of Americans—there is much to be learned from the People's Republic. The Chinese will learn, too, from us in science, in technology and the arts.

The cross-fertilization of human experiences has been resumed between China and the United States. The educational interchange has begun anew. This time the exchanges are on the basis of equality. This time the exchanges can bring mutual and durable benefit to both peoples. Last year, more than 1,000 Americans—doctors, professors, journalists, scientists, businessmen, and political leaders—visited China. Four groups of Chinese have now come to see us and to show us. I am confident that the two-way flow will accelerate with time.

Exchanges cost a great deal of money. I am informed, for example, that a three-week tour of China by the Philadelphia Orchestra could cost about $350,000, even with the Chinese paying all in-country costs. The amounts are large even though they are insignificant when compared with the waste which still attaches to the pursuit of our foreign and military policies in and around the rim of Asia.

It would be my expectation that funds for cultural exchange with China could be made available out of savings in these areas. Indeed, one of the contributions which can be made by Congress is to assert budgetary priorities that will bring about such a shift. Small investments in exchanges by both countries, can pay rich dividends in mutual understanding, friendly contact and cultural enrichment.

A special responsibility devolves on the Congress in the field of trade with China. Good trading relations mean good foreign relations and especially at this time. The Chinese have a record of scrupulously living up to agreements to which they put their signatures, whether sales contracts or political settlements.

China's needs from abroad have been deliberately restrained. In the past decade or more, the Chinese have looked to their own resources for economic building blocks, concentrating on developing a largely self-contained productive capacity. Such foreign trade as there is remains governed by two basic principles: (1) equality and mutual benefit, and (2) exchange of what China has in surplus for what is lacking. As a general practice, a rough balance is maintained between imports and exports. Hence, China has no external debts of any consequence.

As economic development accelerates, there may be changes in the Chinese approach to trade relations with the outside world. For the present, however, no sudden change is to be expected. Because the doors to America's warehouses have at last been unsealed does not mean that Chinese traders will rush to enter and such bill boards as there are in China are not available for the advertising of foreign products. They are used, rather, to stress Chinese effort in production even as they urge restraint in Chinese consumption.

China's foreign trade is small. In 1972 the total was estimated to be $5 billion, roughly balanced between imports and exports. That amounts to a trade turnover of less than one-half of one percent of our gross national product.

U.S. trade with China has responded promptly to the removal of the embargo by President Nixon. At the Canton trade fair last fall, for example, there were 75 American businessmen, twice the number attending the spring fair. From $5 million in 1971, U.S.-China trade increased to $92 million last year; $60 million in exports to China, primarily of farm products, and $23 million in imports from China. Exports to China could reach $350 million this year, with the shipment of Boeing 707s and the sale of large amounts of cotton and other farm products. Even the most optimistic observers, however, do not believe China's exports to the United States will exceed $50 million this year.

Part of the disparity derives from U.S. tariff discrimination against Chinese imports. Until caught up in the frenzy of cold war, traditional trade policy was to give most-favored-nation treatment to imports from all countries, regardless of politics. But twenty-two years ago, the Chinese mainland, along with other Communist countries, was denied that treatment.

The President has now negotiated a trade agreement with the Soviet Union providing for most-favored-nation treatment. There is no reason whatsoever to do less, in my judgment, with regard to Peking. It has been estimated that about 50 percent of China's exports to the United States are affected by lack of most-favored-nation treatment. The present gross trade imbalance with China cannot continue indefinitely. Either Chinese purchases here will drop or more will have to be bought from China or new multi-angular patterns of trade will have to be encouraged in the Western Pacific.

It would be my hope that Congress will provide authority to negotiated a most-favored-nation arrangement with China along the lines of the recent agreement with the Soviet Union. Such an arrangement could be consummated, notwithstanding the absence of formal diplomatic relations. I should note that with regard to the Soviet Union, the pending trade-agreement is now clouded by the Mills-Jackson amendment which relates to the emigration payments required of Soviet Jews seeking to go to Israel. That should not deter Congressional action on most-favored-nation treatment for China. The two situations are not analogous and it would be most unfortunate to lose momentum which has been generated in the Sino-U.S. reapprochement over what is an unrelated issue in Europe.

In closing, I would reiterate that a China policy based on myth and self-deception has been a major factor in the atmosphere of crises in which we have lived since the end of World War II. Before the Nixon Administration neither the Executive Branch nor the Congress did very much to rectify our relationship with the new China. The President's initiative in going to Peking has brought us, at last, to grips with this neglected situation. It remains for the Legislative Branch, now, to take action to remove the accumulated legal barnacles of the past. In so doing, Congress will join tangibly with the President in normalizing our relations with the Chinese People's Republic.

In doing so, moreover, Congress will contribute to the improvement of the prospects for peace in the Western Pacific and in the world. There is no doubt that what happens in and around China forms an enormous segment of those prospects even though China eschews the label "Great Power." Chinese society, today, is strong and unified perhaps as never before in history. It has a dynamism based on a "one for all and all for one" concept. "Serve the people" is more than a slogan, it is a national way of life. To visit China is to feel, personally, the vitality of a vast, intelligent and highly competent people and the social enthusiasm which has been generated by their new society. The visible differences between China today and twenty years ago are stupendous. The invisible differences may even be greater. All indications are that the next ten years are likely to add enormously to what has already been achieved.

We are entered on a new era of relations with China. We cannot wipe the slate of the past clean and start afresh. Neither political nor personal relationships are so forgiving. Even now, we confront a residue of stumbling blocks from the past, many of which go back to the 19th century in the form of superior-inferior concepts of China. The job of removing these blocks insofar as they derive from official policy and law rests with the President and the Congress. In a deeper sense, the job is educational. As we proceed to do what must be done, however,

the path will open to a new era of stability in the Western Pacific. It will be an era based, not on the military preeminence of any single nation but on the mutual efforts and forebearance of all the concerned nations. There is every reason to expect that the new China will join with us and others in building that kind of a peace in the Pacific, a peace which can be derived through patience, perseverance and perspicacity.

LOOKING TOWARD A SOLUTION TO THE ENERGY SHORTAGE

Mr. SYMINGTON. Mr. President, this past winter a shortage of natural gas and fuel oil in the Midwest gave us a practical reminder of how much we rely on energy, especially that which comes from fossil fuels.

This situation has focused the Nation's attention on the vast and increasing amounts of energy needed to run our civilization, as well as on the growing gap between our demand for and ability to supply energy needs from domestic sources at reasonable cost both now and in the future.

In our capabilities for research, development, and demonstration of new and improved technologies lie the potential solutions to the problem of reducing or eliminating the energy gap. Government and industry support for such work, however, has been insufficient and uncoordinated. We need now to marshal research and development efforts and move ahead aggressively to assure sources and supplies.

For those energy technologies that are already established—such as making synthetic gas from coal and utilizing oil shale—research and development in the 1970's can speed improvements and innovations.

For technologies that offer future promise—such as geothermal energy and coal liquefaction—research and development in the 1970's is crucial to move these concepts to demonstration and into commercial use in the 1980's.

Because I believe a national program, characterized by an urgent and practical commitment for research, development, and demonstration should move us significantly ahead to bring these new technologies to full commercial application, I am pleased to be a cosponsor of the National Energy Research and Development Policy Act of 1973. This constructive proposal, introduced by the distinguished chairman of the Senate Interior Committee, Senator JACKSON, has specific objectives. A major purpose of this legislation is the development by 1983 of energy sufficiency in the United States and the capability by means of socially and environmentally acceptable methods to develop and utilize domestic energy resources.

There are other important objectives—to discover the most attractive short term solutions and to encourage conservation of limited resources of energy supplies.

This energy research and policy proposal creates give Government-industry corporations, each designed to speed research activities and action in five specific areas—coal gasification, shale oil production, advance power cycles, geothermal resources, and coal liquefaction.

The Federal Government would provide between 50 and 80 percent of the initial financing for the five joint Federal-private ventures with the objective of bringing these technologies for alternate sources of energy to the stage of commercial application.

The legislation also proposes to establish an energy management project to better coordinate and support Federal energy R. & D. Three-fourths of the administration's 1974 budget, or about $600 million is for nuclear research and development. The remaining $180 million is scattered through other Federal agencies. The purpose of the management project is to increase and coordinate Federal activities and to formulate a comprehensive energy research and development strategy to improve the efficiency and environmental effects of conventional energy technologies such as petroleum and electrical power generation; also to supplement funding in unconventional sources such as solar energy, fusion processes, low head hydroelectric power, electrical energy storage methods, tidal power, and utilization of waste products for fuels.

Altogether, the legislation envisions authorization over the next 10 years of $20 billion to move alternate energy sources from the laboratory to production.

The proposed National Energy Research and Development Policy Act of 1973 is an excellent beginning for the consideration of Congress in the strengthening and creation of effective Federal policies to meet the energy needs of the Nation.

NEED FOR TAX SIMPLIFICATION—"AN ODE TO THE CODE"

Mr. SCOTT of Pennsylvania. Mr. President, tax day is nearly upon us. As we pick and claw through the various exemptions, deductions, allowances, carrybacks, and carryforwards, we might pause to give thought to simplifying, if that is possible, the income tax law and accompanying revenue code.

Congress is expected to take up a tax reform bill, either this year or next. I would hope that the administration and the appropriate committees of Congress are giving proper consideration to tax simplification. It is urgently needed.

Mr. President, a perceptive and humorous Philadelphian by the name of Joseph Howard Cooper has turned his thoughts on tax simplification into a bit of poetry. I ask unanimous consent to have "An Ode to the Code" published in the March, American Bar Association Journal, printed at this point in the RECORD.

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

[From the American Bar Association Journal, March 1973]

AN ODE TO THE CODE

Oh Congressman Mills
Please let there be
A tax on incomprehensibility
For you could raise more money
Than the country's coffers could hold
By levying on each section of
The Internal Revenue Code
In the beginning Congress created
A statute which is permeated
With subsections and exceptions
Subparagraphs, exclusions, and deceptions

Gross income is defined by Section 61
It gave taxpayers trouble and lawyers fun
For all income from whatever source derived
Meant a legion of loopholes to be contrived

Section 162 led to ordinary and necessary defenses
Of what constitutes trade or business expenses
Section 212 deals with expenses for income production
And affects many an ordinary and necessary deduction

There's concern over anticipatory assignments
Those questionable *Clifford* income consignments
Form v. substance, fruit from tree snares
Lucas v. *Earl*, splitting income and hairs
For loses on a sale or exchange
An ordinary deduction you'll try to arrange
But show a gain as a long-term, capital one
And avoid being taxed on ordinary income

Corporations which collapse
And earnings which carryover
Your dividend is a relapse
Earnings-and-profits problems aren't over
Bases and holding periods
Warranties, rights, and offering myriads
Carefully consider the extra loot
Because 351 and 356 put a tax on the "boot"

355 refers to corporate splits and spins
Off and up and 5 years in
The active conduct of a business or trade
In order to make the controlled group grade
Corporate reorganizations of Section 368
Teach an alphabet many have learned to hate
But it refers to the 354 nonrecognition
And control by an 80 per cent definition

Imposition of an accumulated earnings levy
Unless reasonable needs of the business are heavy
And there's personal holding company tax
Unless you can refute passive income facts
In determining a partner's distributive share
Figure contributions and distributions with care
Look to their bases with every tracing conceivable
Beware of an inventory item or unrealized receivable

Those who appreciated straight-line deductions
Got the chance to accelerate their reductions
But this was depreciated by Section 1245
Whose recapture keeps gain from dispositions alive
Gift, inheritance, and estate taxation
Transfer wealth throughout the nation
At least that's what they're supposed to do
But generations are skipped by a lawyer's coup

Section 2031 defines a gross estate
2032, the alternate valuation date
Legitimate expenses provide a reduction
Prior to the marital deduction
Insurance trusts and annuities
The rule against pertetuities
Future interest and powers of appointment
Problems of valuation and family disjointment

A $60,000 lifetime exemption
Revocable transfers or a stock redemption
What is retained and testamentary
A credit for prior taxes is elementary
Cumulative gift tax calculations
Require inter vivos evaluations
Gift-splitting or a $3,000 annual exclusion
And another lifetime exemption, so avoid confusion

Gift, inheritance, and estate taxation
Charitable purposes reduced in breadth
The first has a rebuttable presumption
The second a philanthropic assumption

Heads of houses and surviving spouses
Intrafamily transactions and technical infractions
Revenue allocations and corporate liquidations
Oil depletions and reform act deletions

Subsidiaries and residuaries
Regulations and limitations
Interpretations and qualifications
Continuations and accumulations
Acquisitions and dispositions
Itemizations and amortizations
Distributions, contributions, and attributions

Credits, brackets, rates, and returns
Accumulated and appreciated concerns
Releases, bulletins, and Treasury rulings
To repair the enactment with after-the-fact toolings
Loose-leaf services tell me the rule
Though the punishment be unusually cruel
Chommie, Bittker, and Eustace too
Thank you all for getting me through.

A CHRISTMAS EDITORIAL BY MRS. VIRGINIA WELDON KELLY

Mr. ERVIN. Mr. President, one of the most beloved and gifted writers on the Washington scene is Mrs. Virginia Weldon Kelly, whose Christmas editorial entitled "Scriptures Form Vital Manual" appeared in the Independent Press-Telegram of Long Beach, Calif., on Christmas Day, that is, December 25, 1972.

This editorial, which states in eloquent fashion some everlasting truths, has attracted the attention of multitudes of people. It is a statement of these principles from the Christian philosophy. It has been commended, however, by many persons of the Hindu, Moslem, Buddhist, and Jewish faiths, as well as by multitudes of Christians.

Mr. President, I ask unanimous consent that a copy of Mrs. Kelly's Christmas editorial be printed at this point in the RECORD.

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

SCRIPTURES FORM VITAL MANUAL

(By Virginia Weldon Kelly)

For Christians, life's finest gift is the birth of Jesus which Arnold Toynbee calls history's most important event.

Dr. Rene Dubos, bacteriologist, said recently that scientists calculate it is unlikely that life resembling man with his free will existing any where but on earth.

Considering the incalculable value of each soul, it is awe inspiring that man has the Scriptures which Jesus venerated and lived by.

The New Testament records His reverence for the Commandments and the law as well as for Isaiah and the other prophets. On the Cross, His prayer was from a beloved Psalm.

When a lawyer asked how to inherit eternal life, Jesus said he must love God with all his heart, soul and mind, and "thy neighbor as thyself."

These answers, with the Ten Commandments and the Sermon on the Mount containing the Beatitudes, form a manual for living, revealing God's love for man. This unmerited love sustains the lonely, sorrowful, poor, ill, and imprisoned. Jesus has admonished us to alleviate this suffering and has promised "Inasmuch as ye have done it unto one of the least of these. . . . ye have done it unto me."

The Scriptures ask "What is a man profited if he gain the whole world and lose his own soul?" If we do not read the Scriptures, we may not ask this question.

The German poet, Rilke, said, "Live the questions . . . perhaps, some day you will live the answers."

In Russia, and other European Communist nations, the Bible cannot be purchased. Citing a news photograph of Nobel Laureate Solzhenitsyn crossing himself at a funeral, Malcolm Muggeridge, British Christian and author, said, "Many Russians are secretly devoted to spiritual truths."

Muggeridge said unless our society recoils from sensualism, we are rushing towards spiritual darkness and the destruction of political and economic freedom.

Solzhenitsyn asserts that truth, beauty, and goodness are not empty formulas, and that great literature helps preserve the national soul, containing facets of God's design.

George Steiner, Cambridge University, wrote recently, "Sonority rooted in the Bible and Shakespeare has served as the code of political order at home and of confidence abroad. Its swift recession from English public modes and education marks a general crisis."

Dr. Rollo May, psychotherapist and author, asserts that today's anti-culture obscenities show language disintegration and our society's death.

Our Christmas wish is that we may "don the armor of light," remembering Jesus' words "I am the resurrection and the life. He that believeth in me though he were dead, yet shall he live."

Mr. ERVIN. Mr. President, Mrs. Kelly is respected not only for her writing ability, knowledge of government and international affairs, but for her integrity in her professional and private life.

Mrs. Kelly reads extensively, and talks with theologians, historians, and scientists before writing her Christmas pieces. She tries to live according to the principles of the Judaic-Christian Scriptures, and is a daily Bible reader.

After 27 years as a Washington journalist, she still has confidence in the goodness and generosity of most people.

Mrs. Kelly was the first woman to receive the U.S. Navy's meritorious Public Service Award. This decoration was given for many years of service to the men of the Navy, their dependents, and to Navy widows and orphans.

Senator JOHN C. STENNIS, Senate Armed Services Committee chairman, the late Senator Richard B. Russell, then Armed Services Committee chairman, and the late Senator Clair Engle in a Senate colloquy recognized her many years of effort in obtaining a U.S. naval hospital for Long Beach, Calif.

Senator Russell said on September 21, 1962, that when he had almost fully decided that hospital was not necessary, Mrs. Kelly convinced him that the hospital should be constructed. That same day, Senator Russell commended Senator STENNIS for including the money for that naval hospital in the military construction bill which Senator STENNIS sponsored.

The foresight of Senator STENNIS and Senator Russell was admirable. A 250-bed addition to that hospital is now being constructed. For the first time, Long Beach Naval Hospital will give obstetric care. The entire new addition will be completed in 1974. Mrs. Kelly has given 22 years of assistance to this hospital.

Virginia Kelly has for 9 years been a trustee of the Navy, Marine Corps, Coast Guard Residence Foundation which has built and operates Carl Vinson Hall in McLean, Va., a nonprofit residence for the widows of commissioned officers of these services.

Coles Bason, present president of the board of trustees, was preceded by William C. Allen and Banks Hudson. The executive director is Rear Adm. John Alford, USN (retired). A former Navy Surgeon General, Rear Adm. Lamont Pugh is director of health care.

Mrs. Lyndon B. Johnson and the late President Johnson headed the list of honorary sponsors.

Recently, President and Mrs. Richard M. Nixon gave autographed pictures which have been placed in Carl Vinson Hall.

Mrs. Kelly devotes considerable time to helping people of the inner city with their problems, including getting jobs for those who have served prison terms.

In the past, she served as a church service soloist in a prison.

She has spent thousands of hours as a Red Cross volunteer in military hospitals. She also has her own "Eye Club" to encourage people with visual problems. Mrs. Kelly had sight problems, but now sees 20–20 with glasses.

RETURN TO THE ONE-ROOM SCHOOL

Mr. AIKEN. Mr. President, I submit for inclusion in the RECORD an editorial which appeared in the Caledonian Record of St. Johnsbury, Vt., on Thursday, February 22, 1973.

This editorial relates to the establishment of a new one-room school at Coles Corner in St. Johnsbury—and gives the reason for its establishment.

It was in the town of Concord, Vt., in Caledonia County that the first normal school in the United States was established back in Colonial times.

The one-room schoolhouse upon which American education was founded has now given way to the frenetic competition of communities to see which areas can have the most rooms in a consolidated area school building.

Perhaps Caledonia County is again trying to lead us to a school system where emphasis is placed upon teaching pupils to read, write and add correctly rather than to debate the sins and virtues of population control about which so many 13-year-olds are now writing their Senators.

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

BACK TO THE ONE-ROOM SCHOOL?

There is to be a new school at Coles Corner in St. Johnsbury. The school will have no more than twenty five students and they will not be divided on the basis of grades or age. The explanation for this curious arrangement is that, "Children of different ages benefit from each other. When older students help with the education of younger students, the teaching reinforces what the older students know and enables them to work together rather than simply compete against each other".

A radical philosophy of education? Quite the contrary. Fifty years ago there was a school at Coles Corner which conducted classes in exactly this fashion. There was a

school like it at the cross roads off almost every rural community in Vermont and there are still a few left in places like Newark and Kirby.

But why have the one room schools which were once the bane of Montpelier become the darling of liberal eduactors? There are several reasons. The size of the schools prevents anyone from getting lost in the corners. Their small staff automatically requires that students take more responsibility for managing their own time and helping each other (the seventh grade teaches the sixth). And they allow their students the privilege of being either stupid or bright. That is the individual automatically advances to whatever grade he is ready for. In large schools frustrated teachers send illiterates into the next grade while forcing gifted youngsters to do the same work as the dullards.

To be sure, there are substantial differences between the here and there, now and then, experiments in education which have sprung up in the Vermont backbeyond recently and the old fashioned one room school which most Vermonters once attended. Not the least of these is the fact that the one room school served a particular neighborhood and was the center of much of that neighborhood's community life. The parents, the school board, and the teachers themselves imposed a sense of discipline that is unsually lacking in present day attempts to recreate the advantageous aspects of the one room school.

CLEO A. NOEL, JR.—A TRAGIC LOSS

Mr. SYMINGTON. Mr. President, the world mourns for the tragedy in Khartoum were a fine Ambassador, a former Missourian, was murdered.

Ambassador Cleo A. Noel, Jr., grew up in the central Missouri town of Moberly. He later earned a bachelor of arts degree and a master of arts in American history from the University of Missouri, Columbia. His mother, Mrs. Cleo A. Noel, still lives in Moberly.

Those who knew Cleo Noel in the foreign service, and as a student, have nothing but high praise for his ability and his dedication. His former graduate school adviser, Dr. Elmer Ellis, president emeritus of the University of Missouri, expressed his regard for Ambassador Noel in a recent interview for the Columbia Daily Tribune. A former associate in the State Department, Archer K. Blood, described him as one of the most outstanding people we had in our foreign service.

The important cause of world peace in this nuclear age has been diminished because a man of talent and dedication has been needlessly assassinated in a moment of rage and desperation.

I ask unanimous consent that an article in the March 3, 1973, Columbia Daily Tribune entitled "Slain Ambassador Left Friends, Family in Area" be inserted at this point in the RECORD.

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

SLAIN AMBASSADOR LEFT FRIENDS, FAMILY IN AREA

"He was a gentle man," said a friend. "He had a quiet air of dignity about him at all times. Tall, good-looking, impeccably dressed. He looked like an ambassador should look."

That was a description of Cleo A. Noel Jr. offered yesterday by Archer K. Blood, one of his close State Department associates prior to Noel's departure six weeks ago to take up his first ambassadorial post in Khartoum, the Sudan.

Noel, 54, who was assassinated late yesterday by Palestinian guerrillas, also left a friend in Columbia. Dr. Elmer Ellis, president emeritus of the University of Missouri, directed Noel's graduate work here.

Noel grew up in Moberly, where his mother, Mrs. Cleo A. Noel, still resides. Noel's brother-in-law, J. W. Barry of Leawood, Kan., told The Tribune yesterday that neither his wife nor his mother-in-law were "in any condition to talk this evening" after being informed of Noel's death at about 4 p.m. yesterday. They left last night to join Noel's mother in Moberly.

"Cleo was one of the greatest people we have in the foreign service," said Blood, who succeeded Noel as deputy director of personnel at the State Department. "He probably knew more about the Sudan than anybody—this was his third tour out there—and he looked forward very much to going back to Khartoum. He was going to live in the same house he lived in before."

The potential dangers of the post "wouldn't have weighed on his mind at all," Blood said. "He's been in difficult spots before in Khartoum."

Noel received a bachelor of arts degree from the University of Missouri in 1939 and a master of arts in 1940, both in American History.

"There aren't many of us left who were here then," Ellis said. "But I know Cleo Noel when he was here and I corresponded with him after he went to the Navy and then went to Harvard with his GI benefits."

"He was a delightful person," Ellis commented.

A career foreign service officer, Noel served as a gunnery officer aboard destroyers in the Caribbean and Mediterranean during World War II and met his wife, the former Lucile McHenry, in London. Mrs. Noel, a former service officer who was a member of the Waves during the war, recently accompanied him to Khartoum but didn't attend the party at which he was kidnaped.

Noel left the Navy in 1945, took a second master's degree at Harvard University and joined the foreign service in 1949. He served two tours in the Sudan, including one as a deputy chief of mission in 1966. After Khartoum severed diplomatic relations with Washington in 1967, he was officer in charge of American interests.

He also served two tours in the State Department's personnel section in Washington.

The Noels had intended to buy a retirement home in Granville, N.Y., after the ambassador's three-year tour in Khartoum.

OEO, FIRST ON THE ONE HAND, THEN ON THE OTHER

Mr. SCOTT of Pennslyvania. Mr. President, a guest editorial in the March 15 issue of the New York Times may help allay the concerns many people have about the future of service programs now being administered through the Office of Economic Opportunity.

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:

OEO, FIRST ON THE ONE HAND, THEN ON THE OTHER

(By Howard Phillips)

WASHINGTON.—In the President's radio address on human resources, he spelled out three criteria to be applied in reaching decisions regarding Federal activities in the social-program area.

First, control over decisions should, insofar as possible, be placed in the hands of those to be directly affected by the decisions.

Second, we must make sure that the dollars we spend are being used most effectively to benefit those for whom assistance is intended.

Third, services should be provided in a manner which fosters self-reliance rather than dependency among recipients.

Consistent with these standards, the President has undertaken a major effort to strengthen and improve, for the benefit of our disadvantaged citizens, the use of Federal funds heretofore administered by the Office of Economic Opportunity. The nation's poor are entitled to a dollar's worth of results for every dollar spent in their name.

In reforming the agency's activities, we have been guided by the following principles:

Essential services must be continued in a manner which prevents the wasteful diversion of funds away from helping the poor.

Responsibility for control over dollars and program priorities should be shifted away from anonymous Washington bureaucrats and placed increasingly within authority of elected officials at the state and local level, men and women who know the problems of their communities at first hand and who can be held accountable, through established processes, for their success or failure.

Research and demonstration authority should be placed within the organizational context of principal departmental groupings in order to facilitate both planning of activities and utilization of results.

Categorical grant-making, with funds assigned as often on the basis of grantsmanship as on need, is in many ways inherently unjust, because of the arbitrary and limited manner in which resources are allocated.

To be effective, our policies must be sensitive to the diversity of those who are poor, and based on the premise that government is best able to help those most eager to help themselves.

The expenditure of funds should, in fairness to the public as a whole and the poor in particular, be premised not on the strength of lobbying by poverty professionals, but, instead, on the basis of the benefits which reach the poor.

The old approach of trickling down dollars for the poor through a vast array of poverty contractors and professionals has only alleviated poverty for the middlemen.

Pursuant to these conclusions, and in line with our budget recommendations for fiscal year 1974, officials of the Office of Economic Opportunity have initiated arrangements for orderly transfer of program responsibility to other departments in accordance with existing legislative authority.

Along these lines, research activities in education, child care and health will soon be assumed by the Department of Health, Education and Welfare, along with certain operational health delivery programs. The Department of Labor will begin to supervise "manpower experimentation," funded by the Office of Economic Opportunity, as well as programs intended to assist migrant workers and their families. Housing research will be meshed with the activities of the Department of Housing and Urban Development. In furtherance of our important commitment to Indian self-determination, greater control over economic opportunity funding will be vested with duly chosen tribal councils, with grants to be disbursed under the authority of the Secretary of Health, Education and Welfare

Consistent with the budget request that funding of overhead costs for community action not be provided by O.E.O. during fiscal year 1974, arrangements have been made for the General Services Administration to assist grantees in completing an orderly

phase-out of their linkages and obligations to this office. To assist the phase-out of our administrative support, final grants of up to six months in length will be obligated through June 30, thus carrying some programs to the beginning of 1974.

The assured continuation of two important programs will require special Congressional action. To this end, the Administration will shortly transmit authorizing legislation to empower the Department of Commerce to continue certain of our community economic development activities through its Office of Minority Business Enterprise. We are also preparing for legislative consideration a proposal to establish a Federal legal assistance corporation with a mandate of helping assure indigent individuals equal access to our system of justice. We seek to enact a bill in this area which will prevent the diversion of legal services funds into political channels and away from the priorities of disadvantaged citizens. It must be stressed that while this is the last year that community action funds will be obligated by O.E.O., Federal support for all other activities will be continued at an equivalent or higher level of expenditure in fiscal year 1974.

Howard Phillips is acting director of the O.E.O.

HUMAN RIGHTS AND INTERNATIONAL LAW

Mr. PROXMIRE. Mr. President, every system of laws is built up slowly, starting with the establishment of certain basic values which become a fundamental part of the beliefs of the individuals of a society.

For example, many of our concepts of freedom, such as those enumerated in the Bill of Rights, were established when the first American colonies were set up by such documents as the Mayflower Compact. These values of our ancestors gradually took root until they became an integral part of the fabric of our way of life and were later embodied in our Constitution.

This system of evolution of laws and principles also applies to the international community. If there is ever to be a body of world law it must begin with the establishment of a series of basic concepts. The recognition by the world community that the crime of genocide is reprehensible and should not be permitted must be one of these basic beliefs.

Twenty-four years ago, the United Nations drafted a convention outlawing genocide and thus providing the nations of the world with an opportunity to declare themselves against this crime against humanity.

As Mr. Charles Yost, former U.S. Representative to the United Nations, said:

> This Genocide Convention is an assertion by the community of nations that certain particularly heinous acts, perpetrated against any nation, or ethnic, or racial, or religious group whatsoever, is wrong—wrong not only in the domestic law of this or that State, but wrong also in the law and opinion of the community of nations itself.

Yet, despite the fact that the Genocide Convention was first transmitted to the Senate by President Truman in 1949, the United States has taken no action. We have had an opportunity to again prove that the United States is committed to the right to life—a basic human principle, but we have stood mute.

Mr. President, as I have done every day the Senate has been in session since January 1967, I again call on the Senate to act without delay to ratify the Genocide Convention and thereby help build a world body of law based on human rights and liberties.

VOTER REGISTRATION

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service Friday concluded hearings on legislation proposed to strike at the vestiges of statutory denial of the franchise to eligible American citizens. Soon, we hope to report to the Senate legislation that will provide for a unified and simplified registration procedure for all Federal elections in each of the 50 States.

The need for such legislation, is, I submit, clear. A year ago, the League of Women Voters concluded in its report titled "Administrative Obstacles to Voting"—

> That the system functions at all is a tribute to the sheer determination of citizens to overcome these inconveniences and obstacles.

The inconveniences and obstacles cited in the league's study included such items as short and inconvenient hours for registration, distant and inconveniently located places of registration, complex registration procedures and pure and simple intimidation on the part of some official registrars.

As an example, I would quote but a brief passage from the league's study:

> The first problem that the citizen is likely to encounter will be finding the registration office. He may well have to travel a considerable distance from his home to a central registration office (except perhaps during the last month of registration for a particular election when he is more likely to find facilities in his neighborhood). In 40% of the communities studied, however, no additional registration places were opened even during these rush months. Since 54% of the registration places were not accessible by convenient public transportation, 24% lacked convenient parking, and 52% were not clearly identified as a registration or elections office, the prospective registrant may well be frustrated before he arrives.
>
> Once he has located the registration office, the prospective registrant may find that it is not open for registration. In 29% of the communities, registration closes more than 30 days prior to an election. Even if he arrives before the registration deadline, the office may be closed since 77% of the communities studied had no Saturday registration and 75% of the communities had no evening registration during non-election months. While 52% of the communities did have additional registration hours during election months, 30% of these still had no additional Saturday hours and 17% had no additional evening hours.
>
> The persistent citizen who anticipates and copes with the numerous obstacles already mentioned will next find himself confronted with a registration form. If the form is confusing or questions arise concerning his eligibility, he may not find the staff very helpful. Fifty-two percent (52%) of the observers at registration places classified staff as not helpful. Furthermore, in 30% of the places where bilingual staff was needed, it was not found.
>
> There is no way to measure the number of citizens who are discouraged from registering even before they get to the registration office, but observations of 5,750 people attempting to register at approximately 300 registration places showed that 3 out of every 100 qualified people who made the effort and found the registration place still left without being registered.

Last year, the Senate, by a narrow margin of 46 to 42, voted to table the national voter registration bill, which included a so-called controversial section limiting durational residency requirements for voting in Federal elections to 30 days. Within days, the Supreme Court of the United States, by a vote of 6 to 1, ruled that residency requirements beyond 30 days were unconstitutional in any election—not just in elections for Federal offices.

So, Mr. President, the issue is narrowed to one of registration alone. It remains, however, an important issue if we are serious about increasing the level of participation in the fundamental act of citizenship—voting.

One of the leading newspapers in my home State of Wyoming recently observed editorially that about 87 percent of the people registered to vote did so in the past Presidential election, even though total turnout of voters amounted to but 56 percent of all those eligible.

Said the Casper Star-Tribune:

> These percentages make it clear that the heart of the problem lies not so much in getting a voter turnout among those registered as in boosting total registration.

Mr. President, I ask unanimous consent that the Casper Star-Tribune editorial titled "Voter Registration" of March 9, 1973, be printed in the RECORD.

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

VOTER REGISTRATION

Ever since the presidential election we have heard the dismal refrain: only about 56 per cent of Americans eligible to vote went to the polls. Another item must be considered alongside that one: about 87 per cent of the registered voters did cast their ballots, according to preliminary Census Bureau figures.

These percentages make it clear that the heart of the problem lies not so much in getting a voter turnout among those registered as in boosting total registration.

It cannot be assumed that if registering were made easier the actual number of persons voting would rise in direct ratio to increased registration. It might be that as the process of registering demanded less effort the proportion of registered voters casting a ballot would decline. Those who have taken pains to register in the past may have a greater motivation to vote—perhaps even a greater sense of commitment to the electoral process—than many others.

One may still fairly conclude that making it easier to register would significantly increase participation at the polls. On balance that is desirable, since broad exercise of this right of citizenship strengthens democracy.

There are two basic needs: simplified registration procedures, and a greatly intensified effort to persuade citizens to register.

A national voter registration plan, safeguarded against abuse, would be a good start. Putting such law on the books, and then mounting a nationwide drive for registration of all eligible citizens, could be expected to markedly increase the proportionate number of eligibles actually voting in the 1976 presidential election.

NO DOMESTIC RETREAT: PROFITS FOR BIG BUSINESS

Mr. HUMPHREY. Mr. President, Business Week, on March 10, 1973, published its latest survey of corporate performance for the fourth quarter of 1972. The results of that quarter and the combined profit levels for the entire year of 1972 reached all-time record highs—earning more than $52 billion in profits. The old record was reached in 1966 with profits of $49.9 billion.

Mr. President, reading the survey gives simple evidence why American working families considered the Nixon administration price and wage policy a failure. Corporate profits in some industrial groupings had increases in the last quarter of more than 200 percent over the final quarter of 1971.

Said Business Week:

Companies were able to fatten profit margins still further in the fourth quarter with only seven of 36 industries reporting a lower net on sales.

Mr. President, I am not one to complain about the productivity of free enterprise. I favor a healthy economy. But I also favor an economy that is just and fair to all Americans.

We have not had that during the Nixon administration years. We have had example after example of corporate favoritism—all at the expense of the American working family.

And now that same American working family is faced with a Nixon budget that is nothing short of domestic retreat on the critical problems of Americans living in urban, suburban or rural areas.

There is, however, one area in which the Nixon budget has very little retreat: profits for big business.

I ask unanimous consent that the survey conducted by Business Week be published at this point in the RECORD.

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

SURVEY OF CORPORATE PERFORMANCE: FOURTH QUARTER 1972

1972: A SPECTACULAR YEAR FOR PROFITS

U.S. business earned $49.9-billion in 1966—a record that stood untouched for six years. But everything fell into place in 1972, and corporate profits jumped to $52.6-billion, with fourth quarter earnings at better than a $55-billion rate.

The latest Business Week quarterly survey of corporate performance indicates how dramatic a year—and a final quarter—it was.

The quarterly survey is compiled by Investors Management Sciences, Inc., of Denver, a subsidiary of Standard & Poor's Corp. The fourth-quarter survey covers 880 companies in 36 different industrial categories. It omits companies with sales of less than $29-million. Utilities are included only when revenues for the quarter topped $50-million, while only banks with $1-billion or more in deposits appear in the survey. Companies whose most recent fiscal quarter ended before Nov. 1 were left out unless their sales for the three months exceeded $100-million. Finally, only companies that had reported fourth-quarter earnings in detail by Feb. 28 show up in the latest survey.

Fatter margins.—Of the 36 industries included in the survey, only one—nonbank financial—reported lower earnings for the quarter. And that was due to a poor showing by American Investment Co. and Merrill Lynch. A year ago, six of the 35 industries then covered reported lower earnings for the quarter. Not a single industry reported lower earnings for full-year 1972, although oil industry earnings showed no gain over 1971. Seven industries reported lower earnings for full-year 1971.

Companies were able to fatten profit margins still further in the fourth quarter, with only seven of the 36 industries reporting a lower net on sales. Nine industries reported lower margins in the final quarter of 1971. IMS figures put the aftertax margin for all the companies in the survey at 5.9%, against 5.2% a year ago.

True, the surveys for fourth quarter 1971 and 1972 are not precisely comparable. A great many new companies have been added to the list over the past year, especially in the real-estate, nonbank financial, and leisure-time areas. Because the survey can include only 800 companies, there must be a cutoff point for listing. It was $10-million a year ago against the current $29-million. And there has been another change. Two new categories appear in this latest survey: instruments, which includes companies from the old photo and optical category, and leisure-time industries.

But those changes certainly do not mask the economic vigor of the fourth quarter. It was a strong quarter for virtually every industry.

Winners and losers. The airlines showed the sharpest gain of any industry—up 115% over the final quarter of 1971. But Delta, with earnings up 286%, gets most of the credit for that. By contrast, both Pan American and TWA lost money in the quarter.

The 98% earnings gain for the steel industry in the final quarter was more broadly based. Fourth-quarter profits were up 18% for giant U.S. Steel, 46% for Inland Steel, 72% for Armco, 221% for National Steel, and 436% for Lykes-Youngstown. Both Republic and Jones & Laughlin lost money in the final three months of 1971, but earned money in the last quarter of 1972.

It was a boom quarter for the makers of specialty machinery, with demand way up. The nonferrous metals and paper industries each benefited from heftier demand and much firmer prices. Alcoa pushed profits up by 273% in the quarter, while at Anaconda, the gain was 438%. International Paper, the biggest in its industry, reported fourth-quarter profits up 68%.

The aerospace industry had an impressive turnaround, earning $96-million as a group against a $13-million loss in the fourth quarter of 1971.

Retailers turned in the most mixed performance of all. Most of the non-food stores were up nicely in the quarter, with Sears up 14% and Marcor up 49%. The food chains, on the other hand, generally had a dismal time of it. A&P, which started the price war that helps to explain the distress of the food retailers, lost $8.4-million in the final quarter, and $52-million for all of 1972.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P-E 2-28	12 months earnings per share
Aerospace (airframes, general aircraft, and parts):													
Beech Aircraft [1]	$49.5	31	$188.1	27	$2.4	77	$8.1	64	4.8	3.5	17.0	10	1.75
Boeing	655.9	−22	2,369.6	−22	6.6	61	25.7	15	1.2	.6	3.1	18	1.19
Cessna Aircraft [1]	80.6	64	279.8	58	4.4	103	15.7	103	5.4	4.4	15.6	13	2.11
Fairchild Industries	52.0	−18	230.0	−9	1.3	−20	6.2	−6	2.5		11.0	7	1.36
General Dynamics	388.0	−12	1,539.4	−18	7.9	26	26.0	26	2.0	1.4	7.4	8	2.46
Kaman	32.9	21	115.9	31	.6	7	2.3	23	1.9	2.5	8.7	6	2.28
McDonnell Douglas	802.5	32	2,725.7	32	33.8	23	111.7	38	4.2	4.5	14.5	10	3.52
Northrop	[2] 159.3	0	573.7	0	3.2	98	11.1	1	2.0	1.0	7.2	8	2.57
Rockwell International [1]	616.8	23	2,478.7	13	17.5	12	79.7	[3]	2.8	3.1	13.2	9	3.12
Talley Industries [4]	75.3	14	298.0	9	1.8	0	8.4	13	2.4	2.7	[3]	7	1.25
Thiokol Chemical	63.1	0	253.8	18	2.6	32	10.0	42	4.1	3.1	11.3	9	1.66
United Aircraft	586.0	7	2,023.8	0	13.9	[3]	50.6	[3]	2.4	[3]	9.9	9	4.17
Industry composite	3,462.0	6	13,074.3	1	95.9	[3]	355.6	118	2.8	[3]	9.9	10	2.60
Airlines:													
Allegheny Airlines	76.4	64	265.0	50	1.8	90	4.5	[3]	2.3	2.0	12.7	14	.76
American Airlines	332.4	5	1,353.8	9	.3	−81	5.6	86	.1	.4	1.2	92	.20
Braniff Airways	94.5	10	372.1	10	3.8	39	17.2	85	4.1	3.2	17.2	15	.85
Continental Air Lines	92.4	7	365.9	10	.5	−54	9.2	23	.6	1.4	8.3	17	.75
Delta Air Lines [5]	254.3	18	890.6	16	18.8	236	55.9	109	7.4	2.3	17.5	20	2.87
Eastern Air Lines	294.1	10	1,160.9	10	3.3	−48	23.0	304	1.1	2.4	8.4	11	1.20
Flying Tiger	70.7	5	257.2	23	10.1	26	29.8	46	14.2	11.8	28.5	11	2.70
National Airlines [6]	95.3	20	367.4	20	5.1	7	20.9	82	5.3	5.9	14.9	10	2.45
Northwest Airlines	98.8	−18	392.5	−8	1.8	−85	17.7	−17	1.8	9.7	3.7	30	.83
Pacific Southwest Airlines	29.6	14	112.2	9	.6	−63	5.7	5	1.9	5.8	8.1	12	1.43
Pan American World Airways	309.8	9	1,305.2	11	−14.4	[3]	−28.9	[3]	[3]	[3]	−7.3	[3]	−.72
Trans World Airlines	355.5	12	1,417.2	13	−1.2	[3]	43.1	[3]	[3]	[3]	14.0	11	3.01
UAL	459.8	13	1,828.4	13	2.8	−6	20.4	[3]	.6	.7	3.4	29	.80
Western Air Lines	90.4	10	365.7	12	2.1	10	11.7	99	2.3	2.3	12.9	11	.87
Industry composite	2,653.9	11	10,454.1	12	35.3	115	235.8	249	1.3	.7	6.7	22	.95

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Appliances:													
Hoover	$122.3	6	$458.4	14	$9.9	24	$29.5	43	8.1	6.9	17.4	13	2.23
Magic Chef [6]	54.6	19	218.0	24	2.8	17	10.4	47	5.2	5.3	17.2	12	1.36
Maytag	58.1	10	206.9	56	8.9	16	28.0	133	15.3	14.6	31.0	17	2.09
Singer	608.9	2	2,217.5	6	31.0	14	87.5	22	5.1	4.5	10.5	13	4.82
Sunbeam [4]	208.2	21	547.9	14	8.9	19	23.9	17	4.3	4.3	11.7	15	1.81
Tappan	63.5	(5)	223.4	57	2.5	(5)	6.3	57	3.9	(5)	15.1	8	2.17
Whirlpool	355.6	22	1,416.3	11	17.8	78	68.2	35	5.0	3.4	21.9	16	1.91
White Consolidated Industries	181.7	18	728.1	5	3.2	164	30.2	34	4.5	2.0	18.5	7	2.22
Industry composite	1,653.0	13	6,016.5	11	90.0	33	284.0	36	5.4	4.6	15.3	13	2.39
Automotive (autos, trucks, equipment, and parts):													
Allen Group	38.9	16	149.5	21	.4	(5)	3.8	12	.9	(5)	9.3	11	1.24
American Motors [1]	411.1	24	1,483.9	20	7.1	81	19.6	451	1.7	1.2	8.4	10	.76
Arvin Industries	56.0	7	205.5	13	2.3	27	7.5	33	4.1	3.5	12.0	16	1.35
Bearings [6]	29.6	25	112.0	17	1.4	42	5.5	15	4.6	4.0	16.0	20	2.77
Bendix [1]	[2] 476.4	20	1,861.4	14	14.2	31	62.6	41	3.0	2.7	12.7	10	3.76
Borg-Warner	331.2	14	1,283.2	12	19.7	16	59.3	25	5.9	5.8	10.3	10	3.02
Budd	177.0	18	670.8	24	3.8	−21	14.8	208	2.2	3.2	9.7	6	2.19
Chrysler	2,704.8	26	9,759.1	22	84.4	139	220.5	164	3.1	1.6	9.5	8	4.27
Cummins Engine	149.4	17	521.1	6	4.1	−31	8.2	−62	2.7	4.6	4.9	32	1.24
Dana [7]	231.6	20	860.4	24	13.4	31	48.1	40	5.8	5.3	15.8	10	3.49
Eaton	325.0	22	1,223.1	18	19.2	3	70.4	23	5.9	7.0	14.7	9	3.78
Eltra [1]	154.3	13	601.6	29	7.9	19	26.8	26	5.1	4.9	11.8	9	3.49
Federal-Mogul	75.1	12	289.9	8	3.5	1	14.6	10	4.7	5.1	12.2	10	2.55
Ford Motor	5,580.3	22	20,194.4	23	240.4	19	870.0	32	4.3	4.5	14.5	8	8.52
Fruehauf	145.3	11	550.4	14	8.6	11	26.8	38	5.9	5.9	11.4	10	3.05
General Motors	8,784.1	21	30,400.0	8	667.2	23	2,163.0	12	7.6	7.4	19.6	10	7.51
Gould [6]	148.5	34	568.9	29	6.2	24	22.1	26	4.2	4.5	11.9	11	2.50
Houdaille Industries	66.6	18	247.4	23	5.0	(5)	12.8	58	7.5	(5)	14.6	9	1.48
International Harvester [8]	1,033.1	16	3,493.3	16	32.3	25	86.6	92	3.1	2.9	7.4	11	3.17
Kelsey-Hayes [7]	130.4	20	475.3	17	2.4	221	9.0	16	1.6	0.7	8.0	9	3.07
Libbey-Owens-Ford	161.1	26	594.4	22	14.0	23	52.6	6	8.7	8.9	22.6	9	4.22
Maremont	59.2	4	270.0	12	2.5	118	11.2	118	4.3	2.1	26.3	13	2.70
McCord [7]	38.2	42	122.4	15	1.3	−2	4.3	(5)	3.4	4.9	11.1	10	2.17
Purolator	[2] 56.4	16	218.9	16	2.7	5	11.5	16	4.8	5.3	20.5	23	2.51
Questor	75.8	16	335.3	17	2.4	13	14.2	23	3.2	3.3	10.6	12	1.45
Royal Industries	38.6	26	155.0	36	1.5	0	5.7	27	3.9	4.9	16.1	8	1.11
Sheller-Globe [1]	65.1	44	249.3	21	1.5	167	7.3	23	2.3	1.3	19.9	8	1.73
Smith (A. O.)	132.0	17	492.8	8	2.1	−48	9.9	−22	1.6	3.5	6.4	9	2.02
TRW	451.1	6	1,687.5	9	20.5	(5)	76.1	16	4.6	(5)	18.9	13	2.22
White Motor	252.3	27	943.3	13	2.3	(5)	7.1	191	.9	(5)	3.2	16	0.79
Industry composite	22,378.2	21	80,017.6	15	1,194.4	26	3,952.0	23	5.3	5.1	15.6	12	5.54
Banks and bank holding companies:													
Bancal Tri-State	39.9	8	147.1	8	2.4	4	6.2	−22	6.1	6.4	7.2	12	2.06
BancOhio	36.5	18	136.6	19	5.1	38	17.7	19	13.9	11.8	11.2	10	2.68
Bank of New York	55.6	4	205.8	1	7.8	−3	26.6	−3	14.0	15.0	14.1	9	4.24
BankAmerica	439.0	9	1,651.3	9	53.9	9	189.0	6	12.3	12.3	13.7	16	2.74
Bankers Trust New York	178.3	3	654.9	5	18.1	9	59.4	8	10.1	9.6	12.0	10	5.75
CIT Financial	149.3	3	566.3	0	25.0	9	85.1	9	16.7	15.9	13.5	11	4.10
Cameron Financial	33.0	19	121.5	11	3.8	35	13.4	2	11.5	10.2	16.2	17	2.22
Charter New York	94.1	13	328.5	3	8.6	33	26.7	4	9.1	7.7	9.4	10	3.29
Chase Manhattan	408.6	11	1,466.3	2	42.6	10	148.3	0	10.4	10.6	12.1	11	4.65
Chemical New York	196.6	14	694.3	7	17.7	−8	63.5	−13	9.0	11.1	9.5	11	4.65
Citizens & Southern National	48.9	19	178.5	14	6.5	28	23.7	12	13.3	12.4	14.8	26	1.02
Cleveland Trust	43.0	11	157.3	4	8.2	17	26.9	4	19.1	18.0	9.4	10	8.93
Continental Illinois	166.7	20	571.1	12	22.4	3	78.1	12	13.4	15.7	12.9	11	4.54
Crocker National	115.2	10	424.2	6	9.4	6	33.9	−2	3.2	8.5	11.4	9	3.26
Detroit Bank & Trust	37.7	10	141.9	5	5.2	14	18.3	−1	13.7	13.2	11.0	8	5.97
Fidelity	38.6	11	137.1	15	5.0	27	16.6	11	12.9	11.3	15.6	11	4.03
First Bank System	86.4	19	322.7	14	13.1	15	49.5	11	15.2	15.8	14.5	18	3.37
First Chicago	163.1	18	578.8	14	21.1	26	78.3	18	12.9	12.0	12.2	14	4.02
First International Bancshares	37.1	20	137.9	17	8.0	12	24.9	11	21.4	23.0	15.9	20	2.22
First National Boston	97.8	21	339.5	10	11.6	9	42.1	4	11.9	13.3	10.6	11	3.51
First National City	542.1	15	1,954.7	9	55.5	24	201.8	20	10.2	9.5	14.4	21	3.56
First Pennsylvania	95.7	24	336.9	19	10.8	21	38.2	11	11.3	11.5	16.9	13	3.05
First Wisconsin Bankshares	44.7	17	162.0	16	4.9	22	16.5	12	11.0	10.5	11.3	10	3.91
Franklin New York	55.1	8	197.6	1	3.6	7	13.1	−28	6.5	6.7	8.1	13	2.21
Harris Bankcorp	43.6	14	151.0	9	5.9	29	18.0	8	13.6	12.0	10.1	10	5.76
Lincoln First Banks	38.4	18	140.6	13	3.8	6	14.7	6	9.9	11.0	10.6	8	3.91
Manufacturers Hanover	202.5	21	706.6	9	23.7	20	79.7	1	11.7	11.8	11.1	12	2.81
Manufacturers National Bank of Detroit	34.4	9	130.7	7	4.0	2	14.1	−1	11.5	12.3	12.4	7	6.87
Marine Bancorp (Seattle)	31.0	4	119.9	4	2.4	−11	9.4	−8	7.8	9.1	8.7	8	2.53
Marine Midland Banks	152.3	15	549.8	15	12.7	3	44.5	1	8.4	9.3	11.7	9	3.41
Mellon National	95.9	18	328.5	7	12.8	10	45.6	−5	13.4	14.4	8.9	10	4.56
Morgan (J. P.)	205.3	9	754.6	5	31.3	12	119.8	9	15.2	14.3	14.0	15	6.55
National Detroit	74.5	5	283.3	3	9.1	−9	34.8	−3	12.2	14.1	10.6	8	5.80
NCNB	47.0	33	170.3	28	5.7	24	21.3	22	12.1	12.9	18.9	26	1.43
Northwest Bancorp	89.9	17	328.7	13	11.1	16	43.3	14	12.3	12.4	13.2	15	3.66
Nortrust	37.2	2	136.6	2	5.5	25	18.0	3	14.7	12.0	11.2	11	3.53
Republic National Bank of Dallas	51.5	23	177.4	16	7.5	19	23.8	10	14.5	15.1	14.7	16	2.53
Seattle-First National	49.8	8	189.7	9	6.0	20	23.1	6	12.0	10.9	13.0	13	5.13
Security National Bank, Hempstead	31.6	21	113.5	16	3.5	−2	13.9	0	10.9	13.5	13.9	9	2.99
Security Pacific	161.7	13	603.5	12	14.9	13	57.2	6	9.2	9.2	10.7	10	2.81
Shawmut	32.4	12	118.0	7	3.5	12	11.6	2	10.9	10.8	9.8	9	6.02
Southeast Banking	34.3	21	107.1	17	5.1	15	14.3	13	14.8	15.6	15.8	19	1.79
U.S. Bancorp	35.8	12	134.4	11	4.5	18	16.7	15	12.7	12.1	13.1	11	4.11
Union America	74.0	21	264.9	16	6.8	44	25.8	28	9.3	7.3	17.3	13	2.64
United Virginia Bankshares	31.3	28	110.2	17	3.8	32	14.1	18	12.1	11.6	14.4	15	2.84
Valley National Bank Arizona	40.3	8	153.0	11	4.0	6	16.1	10	9.9	10.1	13.8	16	1.82
Wells Fargo	139.0	16	501.6	14	11.4	17	39.1	14	8.2	8.1	11.1	12	2.10
Western Bancorp	228.7	15	848.9	10	18.8	22	68.9	4	8.2	7.7	11.2	10	3.01
Industry composite	5,166.2	13	18,735.6	9	587.8	14	2,084.6	7	11.4	11.3	12.4	12	3.49

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Beverages (brewers, distillers, soft drinks):													
Anheuser-Busch	$231.0	8	$977.5	8	$15.2	—9	$76.4	7	6.6	7.8	17.5	31	1.70
Coca-Cola Bottling of N.Y.	64.1	(5)	195.5	12	3.9	(5)	10.6	13	6.0	(5)	19.6	27	.81
Glenmore Distilleries [6]	[9] 45.7	0	161.5	—3	.4	—2	.9	(5)	1.0	1.0	2.4	14	.71
Helleman (G.) Brewing	[9] 38.3	52	140.3	31	1.7	28	5.8	6	4.5	5.4	19.8	9	1.51
Heublein [6]	[9] 281.0	13	1,006.5	12	9.6	19	38.8	18	3.4	3.2	26.1	26	1.98
National Distillers & Chemical	[9] 332.2	9	1,150.5	6	11.8	16	34.2	12	3.6	3.4	7.6	12	1.24
Pabst Brewing	[9] 99.4	2	448.3	8	6.9	7	28.6	12	7.0	6.7	14.0	23	2.99
Pepsi-Cola	456.1	17	1,400.1	13	21.0	15	71.7	14	4.6	4.7	17.9	27	3.05
Royal Crown Cola	49.6	10	191.4	15	2.1	27	11.7	20	4.1	3.8	28.0	24	1.48
Schaefer (F. & M.)	54.7	—2	228.7	1	—1.7	(5)	—1.0	(5)	(5)	1.9	—1.8	(5)	—.21
Schlitz (Jos.) Brewing	[9] 185.4	14	779.4	16	9.6	28	45.8	30	3.1	5.2	4.6	37	1.58
Seven-Up	29.3	3	119.8	7	3.0	13	11.8	9	10.3	9.4	29.0	31	1.10
Southdown	[2] 49.5	5	194.0	7	4.3	9	13.2	13	8.8	8.4	42.2	6	2.60
Industry composite	1,915.2	22	6,993.5	13	87.9	9	348.5	13	4.6	4.8	16.0	22	1.76
Building materials (cement, wood, paint, heating & plumbing, roofing, etc.):													
American Standard	357.5	(5)	1,320.6	—6	7.9	(5)	25.2	119	2.2	(5)	6.2	10	1.15
Ameron [10]	37.9	.25	129.0	7	1.7	—16	4.8	16	4.4	6.5	9.5	7	2.10
Bliss & Laughlin Industries	[2] 44.4	129	133.1	37	2.1	48	6.6	39	4.6	7.2	13.1	7	2.30
Boise Cascade	298.4	15	1,150.9	16	14.0	(5)	40.3	158	4.7	.6	4.8	8	1.29
Brown [10]	70.6	32	249.2	21	1.6	209	3.3	162	2.3	1.0	6.8	12	1.02
Carrier [8]	199.7	29	739.4	14	7.2	9	32.3	21	3.6	4.2	11.6	19	1.32
Certain-teed Products	102.0	25	392.6	18	6.3	34	23.6	57	6.2	5.8	20.8	8	2.12
Champion International	471.3	14	1,871.7	17	13.8	36	59.5	30	2.9	2.5	10.7	10	1.71
Copeland [1]	38.1	32	162.8	21	1.6	39	8.5	29	4.3	4.1	21.3	16	1.38
Crane	217.9	10	844.4	7	4.8	72	12.5	21	2.2	1.4	7.7	8	2.36
De Soto	57.9	20	237.3	11	2.0	45	5.6	25	3.5	2.9	8.6	11	1.03
Evans Products	[2] 240.8	28	947.9	30	6.4	50	28.4	47	2.6	2.2	14.6	10	1.71
Fedders [7]	58.6	—33	272.1	—25	.5	—89	2.8	—85	.9	5.7	1.7	(5)	.18
Flintkote	104.1	—4	440.6	4	4.2	11	16.7	21	4.1	3.5	8.9	8	2.60
General Portland	45.1	15	182.4	27	2.5	—10	11.2	8	5.6	7.3	10.1	9	1.65
Georgia-Pacific	537.8	36	1,929.1	33	34.4	59	128.5	49	6.4	5.5	17.9	13	2.41
Gifford-Hill	[2] 31.9	23	146.1	32	1.5	16	9.0	27	4.9	5.2	14.5	10	2.21
Ideal Basic Industries	42.9	—3	202.4	14	4.5	10	21.7	25	10.5	9.2	12.4	10	1.55
Interpace	47.4	0	202.3	9	2.4	7	7.6	8	5.1	4.8	7.9	8	2.21
Jim Walter [7]	254.4	30	950.4	27	14.7	35	49.1	29	5.8	5.6	26.6	9	2.71
Johns-Manville	213.2	9	796.3	14	11.3	—23	49.3	7	5.3	7.5	10.8	9	2.66
Kaiser Cement & Gypsum	36.0	4	150.6	13	1.6	—18	8.7	26	4.4	5.6	11.5	9	1.09
Lehigh Portland Cement	29.1	—10	125.2	5	2.2	32	7.6	40	7.5	5.1	6.9	8	1.83
Lone Star Industries	131.7	36	463.4	24	7.6	1	24.1	12	5.8	7.8	11.4	9	2.16
Masco	43.8	36	134.3	34	3.8	36	14.4	36	8.7	8.7	23.9	39	1.32
Medusa	31.6	2	123.0	14	1.8	8	6.9	11	5.7	5.4	9.1	10	2.75
National Gypsum	126.8	9	519.0	13	7.6	18	30.6	44	6.0	5.5	9.7	9	1.88
NL Industries	263.7	13	1,013.7	10	8.0	62	36.8	62	3.0	2.1	8.9	10	1.53
Norris Industries	85.1	20	316.8	16	4.0	—10	16.6	6	4.7	6.2	18.2	8	3.84
Owens-Corning Fiberglas	168.1	19	615.3	15	10.7	44	35.8	48	6.4	5.3	12.8	18	2.42
Potlatch Forests	90.2	9	377.4	6	2.5	—14	16.6	55	2.8	3.5	8.1	9	2.24
Robertson (H.H.)	79.6	—2	252.8	1	3.2	8	6.7	5	4.0	3.6	10.2	8	2.42
Sherwin-Williams [7]	156.4	8	677.9	18	3.9	2	21.8	41	2.5	2.6	9.5	11	3.86
Southwest Forest Industries	76.5	(5)	319.7	59	3.2	(5)	10.0	71	4.2	(5)	12.7	5	1.97
Temple Industries	32.0	(5)	100.9	22	2.6	(5)	9.6	38	8.0	(5)	14.6	12	1.56
Texstar [1]	31.0	17	134.5	19	.3	23	2.3	26	.9	.9	14.0	8	.72
Trane	73.2	11	276.1	7	5.5	56	17.4	4	7.6	5.4	11.6	20	3.12
U.S. Gypsum	169.2	13	652.1	16	13.0	11	49.1	27	7.7	7.8	12.0	9	2.78
Wallace-Murray	68.0	15	259.3	15	2.8	25	9.3	33	4.1	3.7	12.7	6	2.53
Weil-McLain	39.0	12	146.2	16	1.6	39	6.2	30	4.0	3.3	14.9	8	1.75
Westvaco	129.2	9	472.0	10	6.5	237	13.1	161	6.0	1.6	5.1	19	1.22
Weyerhaeuser	477.3	31	1,875.9	29	42.3	10	158.1	39	8.9	10.5	15.1	20	2.35
Industry composite	5,809.4	17	22,106.7	16	280.4	24	1,048.2	31	4.8	4.5	12.4	11	2.04
Chemicals:													
Air Products & Chemicals [1]	85.5	9	357.9	10	4.7	15	18.9	9	5.5	5.2	10.5	24	2.96
Airco	116.0	(5)	492.3	20	2.6	(5)	17.9	—2	2.3	(5)	6.6	9	1.53
Akzona	156.3	21	571.5	13	8.5	15	23.2	—10	5.4	5.7	9.0	15	1.86
Allied Chemical	407.0	23	1,500.0	13	18.1	30	65.5	27	4.4	4.2	8.0	14	2.38
American Cyanamid	341.3	3	1,358.9	6	28.8	5	108.8	16	8.4	8.3	13.1	13	2.24
Cabot [1]	69.7	8	279.6	6	4.4	17	19.0	9	6.4	5.9	8.5	9	3.41
Celanese	366.1	14	1,384.8	12	15.2	6	51.2	—14	4.2	4.5	8.5	10	3.39
Chemetron	79.7	3	314.2	4	2.1	18	8.0	94	2.7	2.4	5.0	9	2.00
Diamond Shamrock	156.0	10	617.3	8	9.3	42	33.3	34	5.9	4.6	11.6	13	1.69
Dow Chemical	642.1	24	2,403.7	17	43.6	21	189.0	22	6.8	7.0	15.2	25	4.14
Dupont	1,143.0	19	4,366.0	13	105.0	22	414.0	19	9.2	9.0	14.3	28	8.50
Ethyl	162.2	13	631.6	9	11.3	18	44.7	17	7.0	6.7	17.1	7	4.03
Ferro	53.8	20	204.8	22	3.1	25	12.4	57	5.7	5.5	20.0	12	3.14
Freeport Minerals	37.5	7	151.6	7	4.7	91	17.1	31	12.5	7.0	7.3	24	1.10
GAF	198.2	9	768.5	12	6.8	1	27.7	26	3.4	3.7	10.5	3	1.75
Hercules	247.2	25	932.0	15	16.3	42	70.4	32	6.6	5.8	15.0	20	3.50
Inmont	91.5	12	357.1	8	1.9	167	8.3	44	2.0	.9	7.4	9	1.02
International Minerals & Chemicals [6]	125.2	29	514.6	2	5.4	34	23.4	40	4.3	4.2	12.9	14	1.91
Kewanee Oil	[2] 42.4	2	167.2	8	4.3	1	12.7	11	10.0	10.2	11.0	13	1.47
Koppers	154.8	8	612.8	2	7.3	68	23.1	25	4.4	2.8	9.9	9	4.01
Lubrizol	[2] 57.1	23	221.4	10	6.7	32	26.2	12	11.8	11.0	19.6	32	1.30
Monsanto	523.5	5	2,226.1	7	23.9	48	122.0	30	4.6	3.2	9.9	14	3.49
Nalco Chemical	51.2	27	194.7	6	5.3	22	20.1	18	10.3	10.7	20.2	31	2.01
National Starch & Chemical	45.3	16	175.7	18	3.8	29	14.1	26	8.5	7.6	18.7	25	2.23
Pennwalt	111.4	8	441.0	9	4.9	59	16.1	23	4.4	3.0	11.1	15	1.58
Pepi	44.2	4	204.0	7	.7	51	5.1	18	1.5	1.1	5.7	13	1.70
Purex [6]	85.1	—1	371.5	4	2.9	2	16.2	18	3.4	3.3	14.2	11	1.45
Reichhold Chemicals	54.6	15	217.5	12	1.8	80	7.9	117	3.4	2.2	9.3	10	1.18
Rohm & Haas	162.2	31	618.6	22	14.0	154	47.3	72	8.6	4.5	12.0	29	3.69
Standard International [6]	39.9	27	142.1	19	1.7	15	6.1	14	4.3	4.6	11.2	10	1.73
Stauffer Chemical	131.8	18	542.6	10	8.2	69	33.5	34	6.2	4.4	11.4	12	3.35
Texas Gulf	71.6	31	270.5	24	9.7	57	30.6	21	13.6	11.3	8.0	24	1.01
Union Carbide	874.3	14	3,261.3	7	59.1	46	207.4	36	6.8	5.3	11.0	13	3.42
Witco Chemical	77.7	27	293.5	13	3.2	40	12.6	21	4.2	3.8	13.4	9	2.30
Industry composite	7,015.5	16	27,167.2	11	449.4	29	1,753.8	23	6.4	5.8	11.9	15	3.08

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Conglomerates:													
Avco [10]	$185.3	13	$607.0	−12	$11.1	1	$43.2	13	6.0	6.7	10.7	6	2.30
Colt Industries	188.1	29	707.3	11	5.4	113	16.3	28	2.9	1.7	8.0	10	1.81
Gulf & Western Industries [11]	439.1	21	1,737.9	12	20.2	19	72.8	28	4.6	4.7	13.7	8	3.48
Illinois Central Industries	252.3	19	960.7	12	12.8	16	52.6	16	5.1	5.2	7.2	7	3.12
Indian Head [10]	148.3	28	513.6	15	4.3	14	15.8	18	2.9	3.3	14.5	8	3.02
International Utilities	[3] 332.3	12	1,192.1	12	15.8	18	58.7	17	4.7	4.5	17.7	13	1.88
International Telephone & Telegraph	2,597.6	6	8,600.0	12	149.7	12	477.0	12	5.8	5.5	26.0	13	3.80
Kaiser Industries	60.6	−44	252.9	−32	2.0	−56	5.5	−62	3.3	4.2	.9	32	.15
Kidde (Walter)	220.7	29	832.4	18	9.1	26	32.4	20	4.1	4.2	12.5	7	3.03
Litton Industries [11]	639.9	15	2,561.3	10	9.4	−19	−1.3	−103	1.5	2.1	−.7	[6]	−.13
Martin Marietta	291.5	7	1,046.8	9	13.3	8	53.5	14	4.6	4.6	11.1	8	2.28
Northwest Industries	172.9	21	665.1	18	12.9	55	51.0	28	7.4	5.8	[6]	6	4.01
Signal	[9] 377.7	10	1,458.1	11	13.7	40	42.7	59	3.6	2.8	7.2	10	1.90
Studebaker-Worthington	227.7	12	879.4	9	9.9	52	29.9	−3	4.3	3.2	10.4	7	6.72
Teledyne [8]	317.0	4	1,216.0	10	14.0	−3	57.4	2	4.4	4.7	8.9	10	1.62
Tenneco	917.0	14	3,275.4	15	70.8	0	203.0	10	7.7	8.8	15.3	11	2.60
Textron	408.0	4	1,678.4	5	24.3	16	82.1	14	6.0	5.3	20.2	11	2.32
Whittaker [8]	135.6	14	576.4	10	3.6	−28	13.9	−8	2.7	4.2	7.2	9	.62
Industry composite	7,911.7	11	28,761.4	10	402.2	9	1,306.4	8	5.1	5.2	13.7	10	2.32
Containers:													
American Can	481.7	7	2,000.0	5	9.6	67	55.3	10	2.0	1.3	7.1	10	2.95
Anchor Hocking	88.9	12	340.3	9	5.9	28	20.7	8	6.6	5.9	13.2	9	2.95
Brockway Glass	60.8	21	235.9	13	3.0	7	14.6	9	5.0	5.6	12.6	8	2.97
Continental Can	528.1	5	2,192.7	5	18.8	12	80.8	11	3.6	3.3	10.2	10	2.77
Crown Cork & Seal	114.1	5	489.9	9	7.4	7	31.2	10	6.5	6.4	13.5	15	1.66
Diamond International	190.0	10	603.5	6	10.8	8	37.8	5	5.7	5.7	12.9	9	3.17
Federal Paper Board	72.6	46	248.3	58	4.0	202	9.6	114	5.5	2.7	13.5	9	2.47
Fibreboard	58.5	23	217.2	17	1.5	52	6.1	64	2.6	2.1	9.5	9	1.82
Inland Container	58.5	14	222.5	12	2.5	36	8.9	68	4.3	3.6	7.9	15	3.02
Maryland Cup [1]	33.9	10	172.6	9	.9	6	9.0	30	2.5	2.6	11.1	14	2.06
National Can	105.8	3	475.7	9	2.2	14	14.1	7	2.1	1.9	13.2	8	1.80
Owens-Illinois	415.6	10	1,636.3	9	15.9	19	64.6	8	3.8	3.6	10.4	9	3.95
Industry composite	2,208.4	8	8,833.8	8	82.6	23	352.7	13	3.8	3.3	10.3	10	2.70
Drugs (ethical, proprietary, medical, and hospital supplies):													
Abbott Laboratories	149.9	19	521.8	14	12.5	30	39.4	69	8.3	7.6	14.5	25	2.88
American Home Products	414.5	10	1,689.1	11	43.4	15	172.7	14	10.5	10.0	29.9	39	3.24
American Hospital Supply	181.0	18	668.9	16	9.6	3	33.9	16	5.3	6.1	10.6	46	.99
Baxter Laboratories	75.2	22	278.8	15	5.7	37	22.2	16	7.6	6.8	13.7	67	.77
Becton Dickinson [1]	75.6	14	298.4	[6]	5.5	15	21.5	[6]	7.2	7.1	13.5	29	1.28
Bristol-Myers	310.7	9	1,201.2	9	23.8	25	83.9	9	7.7	6.7	21.5	24	2.60
Carter Wallace [4]	40.9	14	162.3	12	1.6	−53	10.9	−24	3.8	9.3	9.5	14	1.43
International Chemical & Nuclear [10]	43.3	14	164.4	21	−4.2	[6]	1.4	−82	[6]	6.8	2.5	61	.21
Johnson & Johnson	319.0	12	1,317.7	16	27.3	9	120.7	19	8.6	8.8	18.2	56	2.15
Lilly (Eli)	192.7	7	819.7	13	34.8	34	126.3	31	18.0	14.4	23.1	45	1.85
Merck	243.3	11	958.3	13	36.3	10	147.6	14	14.9	15.1	26.9	48	1.99
Miles Laboratories	80.5	2	319.0	11	4.0	3	15.2	13	6.0	4.9	13.1	20	2.85
Morton-Norwich Products [12]	102.6	7	382.4	7	7.0	−2	24.5	6	6.8	7.4	12.0	12	1.95
Pfizer	337.7	[6]	1,090.0	10	33.4	[6]	103.2	14	9.9	[6]	16.5	28	1.50
Richardson-Merrell [8]	134.7	16	476.8	13	10.1	20	39.8	18	7.5	7.3	15.4	24	3.37
Robins (A.H.)	53.2	34	176.7	17	5.2	13	22.8	15	9.7	11.5	22.2	39	1.79
Rorer-Amchem	43.2	10	166.1	11	7.4	11	21.0	9	17.1	17.0	23.0	20	1.51
Schering-Plough	[3] 127.4	15	517.4	15	17.7	35	77.3	31	13.9	11.8	27.4	47	2.89
Searle (G.D.)	77.6	23	271.9	20	12.1	12	41.9	16	15.6	17.0	37.0	37	3.03
Smith, Kline & French	116.0	9	402.8	10	14.2	4	48.9	6	12.2	12.9	22.3	15	3.28
Sterling Drug	130.8	9	720.8	10	19.2	10	69.0	9	10.0	9.9	20.3	29	1.18
Sybron	96.7	12	356.3	9	5.3	17	19.6	12	5.5	5.3	13.1	18	1.64
Upjohn	137.2	19	511.3	17	10.4	6	46.5	17	7.6	8.6	15.2	38	3.16
Warner-Lambert	386.0	10	1,487.5	11	31.9	13	122.7	13	8.3	8.0	15.7	34	3.16
Will Ross [4]	40.2	11	166.2	12	1.5	11	7.2	59	3.6	3.6	14.4	25	1.44
Industry composite	3,970.3	14	15,125.9	13	375.5	14	1,440.3	16	9.5	9.5	19.3	34	2.05
Electrical, electronics (heavy equipment, components, radio and TV sets, etc.):													
Admiral	123.7	11	468.8	15	4.1	49	10.7	122	3.3	2.5	13.6	7	1.98
AMP	34.7	28	302.1	26	9.4	42	33.2	38	11.1	10.0	22.1	44	2.70
Avnet [8]	110.5	25	394.3	22	5.3	31	18.0	33	4.8	4.6	17.0	46	1.29
Bunker-Ramo	64.2	11	252.0	12	4.8	170	13.5	217	7.5	3.1	9.8	1	.55
Capitol Industries [8]	38.0	−9	126.3	1	1.9	60	2.2	[6]	5.0	2.8	4.4	15	.48
Cutler-Hammer	76.8	16	280.9	17	3.0	42	10.1	39	3.9	3.2	10.7	13	3.02
ESB [4]	101.8	11	364.4	14	4.4	44	14.1	19	4.3	3.3	10.2	10	2.56
E-Systems	43.1	−7	156.1	−7	1.1	1	3.2	11	2.5	2.3	10.3	7	.61
Emerson Electric [1]	197.1	16	793.7	15	17.0	12	65.9	11	8.6	8.9	21.5	34	2.73
Fairchild Camera & Instrument	65.4	35	223.9	16	3.3	[6]	7.7	[6]	5.0	[6]	12.5	37	1.58
General Electric	2,840.6	4	10,239.5	9	177.2	15	530.0	12	6.2	5.6	17.8	23	2.91
General Instrument [13]	83.0	14	298.0	10	2.9	72	8.2	66	3.5	2.3	5.5	20	1.00
Globe-Union [1]	84.7	44	196.0	35	2.1	36	4.7	32	3.2	3.4	8.5	11	2.20
I-T-E Imperial	97.1	8	377.8	9	5.1	4	17.6	12	5.2	5.5	12.0	12	2.18
LCA	65.4	33	264.6	35	6.5	42	19.3	46	9.9	9.3	17.5	13	1.80
Lear Siegler [8]	148.1	8	582.1	11	3.8	41	13.9	336	2.5	1.9	16.9	11	.67
Magnavox	207.2	7	686.0	9	5.1	−58	20.7	−40	2.4	6.3	10.3	15	1.17
Mallory (P.R.)	53.1	19	189.9	19	2.6	36	7.4	42	4.9	4.3	9.9	13	1.92
McGraw-Edison	[3] 213.5	25	737.7	10	12.1	68	38.3	29	5.7	4.2	12.1	14	2.56
Motorola	[9] 354.0	25	1,163.3	26	16.8	58	52.0	64	4.8	3.8	13.2	31	3.81
North American Phillips	161.3	8	626.9	12	9.2	61	27.9	32	5.7	3.8	11.9	10	3.15
Raytheon	374.1	5	1,465.0	9	9.0	8	41.2	7	2.4	2.3	13.8	11	2.59
Sola Basic Industries [4]	29.8	17	114.8	23	1.3	34	5.0	35	4.5	3.9	10.1	11	1.46
Sperry Rand [4]	565.4	25	2,144.0	23	23.4	43	84.7	38	4.1	3.6	10.2	18	2.46
Sprague Electric	39.2	24	146.6	24	1.6	[6]	.7	[6]	4.0	[6]	1.7	66	.22
Square D	88.6	18	340.3	14	9.4	−3	35.1	14	10.6	12.8	23.6	22	1.53
Texas Instruments	264.1	31	943.7	23	13.7	49	48.0	42	5.2	4.5	13.8	40	4.34
Varian Associates [1]	54.8	18	212.1	13	1.5	495	4.7	[6]	2.6	.5	3.9	21	.65
Westinghouse Electric	1,424.4	10	5,086.6	10	53.6	5	198.7	13	3.8	4.0	11.6	16	2.24
Zenith Radio	255.4	39	795.9	30	21.3	42	48.6	55	8.3	8.2	20.1	16	2.55
Industry composite	8,288.9	12	29,945.7	13	432.4	22	1,385.4	25	5.2	4.8	14.3	19	2.35

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Food (baked goods, canned and packaged foods, dairy products, meat, condiments, etc.):													
Allied Mills [6]	$119.3	26	$393.7	11	$2.3	302	$4.4	332	2.0	.6	6.4	14	1.61
Amstar [6]	156.5	−4	672.0	0	3.0	−5	14.1	−27	1.9	2.6	7.9	9	3.06
Anderson, Clayton [6]	175.3	20	645.9	6	3.6	62	17.5	13	2.1	1.5	7.7	9	5.33
Beatrice Foods [13]	706.4	15	2,873.2	18	24.8	16	87.3	13	3.5	3.4	18.6	20	1.33
Borden	568.0	5	2,192.9	6	16.7	12	66.0	9	3.0	2.8	9.5	12	2.18
Brewer (C.)	37.5	(3)	143.2	3	2.0	(3)	7.0	3	5.3	(3)	7.3	9	1.54
CPC International	402.2	8	1,549.6	8	22.4	15	64.3	22	5.6	5.2	13.4	12	2.71
Campbell Soup [11]	285.2	19	1,132.5	11	16.5	60	65.8	7	5.8	4.3	12.3	17	1.96
Campbell Taggart	96.5	16	371.1	7	2.6	1	11.9	12	2.7	3.0	13.9	10	2.66
Carnation	326.0	12	1,249.3	9	16.0	13	55.9	11	4.9	4.8	15.1	30	3.20
Castle & Cooke [6]	[2] 181.3	14	575.8	5	3.7	−2	17.0	110	2.1	2.4	8.1	11	1.31
Central Soya [7]	259.3	31	972.4	(3)	4.6	25	17.1	(3)	1.8	1.8	11.7	12	2.21
Consolidated Foods [6]	481.5	13	1,830.6	10	17.7	8	72.4	9	3.7	3.9	14.8	15	2.62
Cook Industries [14]	43.3	14	196.8	23	1.2	37	4.8	17	2.9	2.4	11.9	11	1.57
Del Monte [14]	243.1	17	900.5	16	5.6	12	24.2	7	2.3	2.4	10.2	10	2.01
Fairmont Foods [13]	93.1	6	369.9	6	1.1	6	5.2	12	1.2	1.2	9.1	10	1.14
Federal [14]	71.2	18	276.2	7	2.1	109	6.9	111	3.0	1.7	8.7	9	3.42
General Foods [4]	655.9	6	2,539.3	5	27.1	−4	108.1	−7	4.1	4.6	13.2	13	2.16
General Host	119.7	−7	562.3	71	3.2	96	3.5	65	2.7	1.3	10.0	7	1.69
General Mills [14]	441.3	20	1,462.8	20	21.5	26	60.8	23	4.9	4.7	20.0	22	2.66
Gerber Poducts [4]	67.6	−3	278.2	−1	2.7	−44	16.8	−17	4.0	7.0	13.5	11	2.00
Great Western United [14]	50.7	−15	227.3	−7	−.5	(3)	2.4	−76	(3)	3.4	−7.1	(3)	−1.05
Green Giant [4]	92.7	27	328.0	24	1.5	−12	7.4	34	1.6	2.3	10.1	11	2.09
Greyhound	[2] 773.1	14	2,912.4	7	18.3	4	70.1	4	2.4	2.6	14.5	10	1.67
Heinz (H.J.) [8]	333.0	11	1,224.4	17	12.1	7	43.7	12	3.6	3.7	11.1	14	2.89
Helme Products	29.6	12	91.4	7	1.3	2	3.3	2	4.3	4.7	9.8	9	1.57
Hershey Foods	108.5	2	416.2	4	5.8	8	20.6	1	5.4	5.1	12.8	12	1.58
Hormel (Geo. A.) [8]	192.4	5	719.8	5	2.9	−39	7.8	−53	1.5	2.6	7.9	12	1.63
Interstate Brands	57.9	−15	275.4	−1	−.4	(3)	2.1	−59	(3)	2.1	4.3	13	.89
International Multifoods [13]	140.7	18	497.7	10	3.0	16	9.3	16	2.1	2.2	10.1	12	2.66
Iowa Beef Processors [5]	349.5	36	1,275.5	26	2.9	166	7.4	95	.8	.4	16.8	10	.03
Keebler	46.6	11	203.1	8	1.0	11	4.0	17	2.2	2.2	8.9	12	2.13
Kellogg	148.4	−4	899.2	3	13.9	9	60.5	10	9.4	8.2	21.9	17	1.60
Kraftco	847.4	13	3,196.8	8	27.5	13	100.6	10	3.2	3.2	13.2	13	3.51
Libby, McNeill & Libby [6]	106.1	7	425.1	13	.3	(3)	−.5	(3)	.3	(3)	−.5	(3)	−.07
Mayer (Oscar) [8]	189.7	17	712.3	9	4.0	−19	16.0	−29	2.1	3.0	12.1	19	1.70
Mesa Petroleum	[2] 31.8	(3)	91.6	7	4.5	24	15.2	20	14.1	(3)	(3)	21	3.27
Missouri Beef Packers [8]	116.9	24	395.7	30	1.3	102	2.4	22	1.1	.7	14.7	8	2.06
Nabisco	333.0	16	1,214.9	14	16.9	9	54.4	9	5.1	5.4	16.9	15	3.60
Needham Packing [1]	71.5	16	276.8	8	.7	12	1.7	−23	.9	1.0	15.4	6	1.76
Norton Simon [6]	317.4	8	1,198.1	4	14.0	15	54.1	16	4.4	4.1	15.8	20	1.80
Pet [4]	221.8	5	805.3	4	6.0	−5	20.2	−8	2.7	3.0	9.5	12	2.93
Pillsbury [7 14]	212.7	9	741.0	4	7.8	25	18.8	31	3.7	3.2	11.0	14	3.53
Quaker Oats [6]	278.0	33	900.3	22	13.4	44	41.0	23	4.8	4.5	16.2	20	2.06
Ralston Purina [1]	516.5	14	1,898.7	7	19.2	15	65.2	14	3.7	3.7	15.1	22	1.91
Rath Packing [1]	80.4	13	287.0	3	−.9	(3)	−5.6	(3)	(3)	0	−31.6	(3)	−4.66
Seaboard Allied Milling [14]	36.9	35	150.9	16	.5	−5	2.2	7	1.3	1.8	9.9	5	1.63
Staley (A.E.) Manufacturing [1]	94.1	25	354.7	6	1.0	4	6.5	41	1.0	1.2	6.2	11	2.43
Standard Brands	[9] 389.0	(4)	1,295.0	8	13.3	(4)	44.0	11	3.4	(4)	14.6	16	3.20
Stokely-Van Camp [14]	80.8	10	311.0	9	2.0	32	8.0	16	2.5	2.1	7.8	8	2.16
Sucrest [6]	36.3	13	152.2	11	−.6	(3)	.2	−80	(3)	(3)	1.0	41	.23
Swift [8]	854.5	11	3,240.9	8	12.7	111	37.0	42	1.5	.8	9.3	11	2.90
United Brands	425.0	17	1,668.0	15	1.0	(3)	10.7	(3)	.2	(3)	1.9	11	.80
Wrigley (Wm.) Jr	48.2	5	206.7	9	4.3	2	18.3	8	8.9	9.2	14.6	14	9.30
Industry Composite	13,127.9	13	49,381.5	10	411.5	15	1483.1	9	3.1	3.1	12.4	13	2.27
General machinery (machine tools, industrial machinery, metal fabricators, etc.):													
Associated Spring	36.8	24	146.3	22	1.8	182	6.4	38	4.9	2.2	11.5	10	2.81
Babcock & Wilcox	258.5	−2	955.9	0	7.3	29	24.4	18	2.8	2.1	8.1	13	1.97
Baker Oil Tools [1]	41.5	6	157.2	29	2.4	22	10.2	30	5.8	5.0	15.9	31	1.10
Belden	32.0	17	122.1	15	1.1	6	4.9	34	3.3	3.7	15.1	10	2.43
Black & Decker Manufacturing [1]	90.6	20	360.9	21	6.1	19	27.6	20	6.8	6.8	16.0	52	2.21
Briggs & Stratton [6]	69.1	24	237.4	19	7.7	37	25.4	48	11.2	10.2	28.5	16	3.51
Cincinnati Milacron	80.7	34	283.1	17	1.4	441	1.9	34	1.7	.4	1.2	74	.45
Combustion Engineering	367.2	9	1,179.9	10	13.9	1	39.3	7	3.8	4.1	15.0	15	3.74
Cooper Industries	63.9	25	225.0	10	2.9	282	11.6	106	4.6	1.5	12.8	13	2.52
Crompton & Knowles	30.4	16	121.7	53	1.3	33	4.1	83	4.3	3.8	9.9	9	1.79
Dover	56.2	29	197.9	15	4.0	17	14.3	11	7.1	7.8	17.8	15	3.18
Dresser Industries [8]	253.3	17	906.9	13	12.1	40	38.9	18	4.8	4.0	18.9	15	2.86
Dymo industries [6]	30.5	19	106.5	18	1.3	38	3.7	42	4.2	3.6	10.5	13	1.59
Emhart	69.2	12	266.7	13	5.4	3	15.0	4	7.8	8.5	10.2	9	2.92
Envirotech [4]	43.0	8	161.3	20	1.6	20	5.4	36	3.8	3.4	11.0	28	1.42
Ex-Cell-O [10]	76.7	14	261.3	−1	3.5	288	9.8	22	4.5	1.3	5.4	15	1.16
Foster Wheeler	115.8	−17	491.7	−3	2.6	26	7.1	10	2.2	1.5	11.2	10	2.25
Gardner-Denver	56.2	9	209.6	9	6.5	15	22.9	10	11.6	11.0	14.6	17	1.39
Garlock	29.5	29	105.2	20	1.4	22	4.5	15	4.7	4.9	11.8	9	1.90
General Cable	96.3	32	369.7	6	2.9	−36	15.2	−18	3.0	6.2	10.2	11	1.07
Halliburton	459.9	44	1,422.3	9	17.2	12	66.0	18	3.7	4.3	16.3	38	3.75
Harris-Intertype [6]	108.0	28	400.3	16	4.1	34	14.4	13	3.8	3.6	8.2	18	2.28
Hobart Manufacturing	79.0	23	267.2	11	6.4	66	18.0	23	8.1	6.0	16.0	19	1.59
Howmet	61.9	26	288.8	8	2.1	−12	13.2	0	3.4	4.9	11.9	10	1.35
Ingersoll-Rand	236.7	13	872.0	7	20.2	24	70.9	8	8.5	7.8	15.0	15	4.16
Joy Manufacturing [1]	74.6	−6	319.2	2	2.1	−48	11.5	−30	2.8	5.0	7.4	13	2.22
Keene	35.6	13	138.4	10	.9	18	3.3	23	2.6	2.5	8.4	8	.84
McDermott (J. Ray) [4]	98.3	40	365.5	34	6.1	50	15.8	150	6.2	5.8	8.0	29	2.35
McNeil	32.2	2	122.2	5	1.7	(3)	4.6	.9	5.2	(3)	7.5	8	1.55
Midland-Ross	76.2	20	277.4	14	3.0	196	8.8	35	3.9	1.6	6.3	10	1.42
National-Standard [1]	40.4	22	148.7	16	1.6	131	3.8	−11	4.0	2.1	5.8	34	.88
Outboard Marine [1]	78.8	27	410.9	16	.7	(3)	29.5	32	.9	(3)	17.8	10	3.60
Parker-Hannifin [6]	75.7	28	282.0	17	3.1	35	12.4	26	4.1	3.9	14.9	14	2.17
Peabody Gallon [1]	39.6	31	150.2	34	1.6	26	6.1	35	4.0	4.2	13.2	27	1.11
Premier Industrial [14]	29.4	6	112.0	5	2.1	6	7.5	0	7.0	7.0	26.1	12	.83
Revere Copper & Brass	107.8	31	390.9	17	.4	−19	−.8	(3)	.3	.5	−.5	(3)	−.19
Roper	51.3	22	251.7	13	1.6	10	6.9	28	3.2	3.5	10.5	9	2.85

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P-E 2-28	12 months earnings per share
General machinery (machine tools, industrial machinery, metal fabricators, etc.)—Cont.													
Schlumberger	[2] $224.7	11	$812.1	14	$20.9	25	$70.2	25	9.3	8.2	15.9	47	1.94
Signode	72.7	19	274.1	18	4.7	35	17.5	28	6.5	5.7	15.8	18	3.72
Smith International Industries	[2] 29.5	30	103.3	23	1.8	40	6.0	30	6.2	5.8	12.9	26	1.80
Sundstrand	89.2	25	304.1	21	2.8	36	8.9	101	3.2	2.9	4.4	21	1.12
USM [13]	131.4	17	503.0	12	3.4	138	9.3	73	2.6	1.3	3.9	10	1.81
Warner & Swasey	42.1	44	152.7	27	1.8	41	5.4	42	4.3	4.4	4.8	24	1.45
Wean United	55.7	−21	204.6	7	0	−95	−.2	(5)	.1	1.4	−2.6	(5)	−.35
Zurn Industries [4]	45.0	−4	174.4	2	1.3	10	4.2	13	2.8	2.4	10.4	19	.85
Industry composite	4,273.2	16	15,634.2	12	198.8	25	705.9	19	4.7	4.3	11.6	19	2.11
Instruments (controls, measuring devices, photo and optical):													
Bausch & Lomb	50.4	13	184.5	18	1.2	−60	7.5	4	2.4	6.8	9.5	17	1.30
Beckman Instruments [6]	38.7	11	154.9	11	1.2	22	5.2	30	3.2	2.9	6.9	26	1.47
Bell & Howell	[2] 105.1	17	373.2	12	3.9	23	16.4	20	3.8	3.6	11.0	13	2.97
Bulova Watch [4]	55.1	36	168.3	19	2.5	96	5.5	25	4.5	3.2	7.5	10	1.42
EG & G	34.3	−3	125.4	3	1.2	7	3.4	14	3.6	3.3	13.5	23	.65
Eastman Kodak	1,138.8	20	3,477.8	17	186.5	36	516.2	30	16.5	14.5	21.1	41	3.39
Fisher Scientific	32.6	13	126.9	12	.9	71	2.9	17	2.7	1.8	6.1	13	.76
General Signal	114.1	(5)	345.8	39	6.1	(5)	16.4	38	5.3	(5)	19.7	21	2.13
Hewlett-Packard [8]	139.6	37	479.1	28	12.8	79	37.2	63	9.2	7.0	15.4	61	1.40
Itek	51.8	22	189.1	18	1.5	26	5.2	46	3.0	2.9	7.7	22	1.84
Johnson Service	75.5	7	231.4	10	3.8	3	10.2	5	5.1	5.3	18.5	12	2.36
Minnesota Mining & Mfg	545.7	16	2,114.0	16	66.0	14	244.3	16	12.1	12.3	19.4	37	2.17
Polaroid	[2] 188.9	6	571.2	6	17.6	−14	42.5	−30	9.3	11.5	7.7	97	1.30
Robertshaw Controls	45.1	9	172.5	14	2.4	29	9.8	42	5.4	4.6	12.8	11	2.55
Sherwood Medical Industries	30.6	9	122.6	10	2.7	−9	8.6	−2	8.8	10.5	17.9	15	1.71
Technicon	29.6	17	109.1	9	3.7	126	11.7	34	12.5	6.5	13.7	26	.55
Tektronix [14]	42.2	17	175.1	16	3.1	71	13.5	56	7.2	4.9	10.2	25	1.65
Industry composite	2,713.2	19	9,120.7	17	317.3	27	1,004.1	23	11.7	10.8	17.4	28	2.39
Leisure-time industries:													
American Greetings [13]	[2] 60.4	11	177.6	10	8.3	19	14.7	19	13.6	12.8	16.7	43	1.07
AMF	260.6	11	924.3	23	14.4	10	55.4	28	5.5	5.6	22.5	10	2.95
ARA Services [1]	[2] 231.0	15	890.9	12	7.3	13	27.3	15	3.2	3.2	15.6	29	4.89
Arctic Enterprises [4]	40.7	−6	121.7	−2	.9	−67	4.1	−35	2.3	6.6	13.0	6	1.36
Brunswick	166.4	16	633.8	23	12.0	10	34.8	36	7.2	7.7	14.4	13	1.86
Champion Home Builders [13]	69.4	24	278.7	58	4.2	31	16.9	86	6.1	5.8	47.4	19	.48
Coleman	47.8	−4	182.6	9	2.4	15	9.3	58	5.1	4.3	14.0	17	1.28
Columbia Pictures Industries [6]	[2] 71.1	29	266.7	21	1.0	(5)	2.9	(5)	1.4	(5)	5.5	17	.45
Denny's Restaurants [6]	40.4	13	156.2	32	1.1	47	4.7	52	2.7	2.1	12.4	23	.64
Disney (Walt) [1]	68.9	18	339.3	73	5.0	6	40.0	49	7.3	9.2	10.1	68	1.42
Fuqua Industries	[2] 127.4	16	430.0	17	6.4	42	18.0	29	5.0	4.1	14.7	8	1.85
Gino's	32.4	18	128.0	22	1.2	19	5.3	72	3.6	3.5	22.6	20	1.09
Hammond [4]	33.6	24	101.3	29	1.7	35	4.1	41	5.2	4.8	12.4	9	1.11
Hilton Hotels	88.7	6	341.0	7	4.8	22	16.9	23	5.5	4.7	9.7	15	2.05
Holiday Inns	[2] 190.7	10	775.2	10	9.0	27	42.0	3	4.7	4.2	12.8	24	1.38
Host International	35.2	10	140.1	8	1.8	10	6.0	14	5.2	5.2	19.6	21	1.12
Howard Johnson	73.9	9	324.2	8	3.4	26	19.4	28	4.6	4.0	14.9	31	.90
Marriott [11]	113.9	26	448.3	23	5.2	22	18.8	26	4.6	4.7	12.1	55	.65
Mattel [15]	118.1	40	318.2	13	.3	(5)	−14.7	(5)	.3	(5)	−16.1	(5)	−.89
McDonald's	104.9	33	385.2	33	9.3	29	36.2	38	8.8	9.1	24.0	68	.94
Metro-Goldwyn-Mayer [7]	[2] 33.5	−6	154.9	(5)	2.2	−15	8.8	−2	6.4	7.2	9.0	14	1.49
Milton Bradley	43.1	19	125.6	14	2.8	−3	8.6	7	6.5	8.0	16.6	20	1.36
National Homes	65.2	(5)	242.7	10	.4	(5)	56.6	−42	.6	(5)	6.8	11	.80
Norlin	41.9	26	137.8	21	2.8	19	6.5	23	6.8	7.2	11.1	6	3.20
Redman Industries [4]	87.7	58	317.3	58	3.2	113	10.7	61	3.6	2.7	24.4	12	1.37
Skyline [14]	83.3	3	340.2	16	3.7	−19	20.0	19	4.5	5.6	33.4	13	1.78
Western Publishing	53.9	3	138.5	2	2.9	16	8.5	22	5.3	4.7	11.1	10	2.13
Winnebago Industries [13]	52.0	45	196.9	73	4.1	5	18.9	66	7.9	10.9	34.9	23	.75
Industry composite	2,436.0	14	9,069.1	19	121.9	21	449.8	26	5.0	4.9	14.3	18	1.36
Metals and mining (nonferrous metals, coal, iron ore, etc.):													
Aluminum Co. of America	451.1	29	1,753.2	21	37.9	273	102.8	86	8.5	2.9	8.2	11	4.61
American Metal Climax	227.9	26	863.1	14	18.8	67	66.2	20	8.2	8.2	11.0	13	2.62
American Smelting and Refining	206.0	28	814.3	24	14.6	38	49.1	7	7.1	6.6	7.2	12	1.84
Anaconda	258.9	14	1,011.6	7	9.5	438	44.0	(5)	3.7	.8	4.3	11	2.00
Chromalloy American	143.3	21	541.0	16	5.5	44	20.4	29	3.9	3.2	15.0	8	1.87
Cleveland-Cliffs Iron	[2] 39.3	83	119.6	34	5.1	40	16.6	3	13.0	17.0	10.6	12	5.35
Cyprus Mines	[2] 143.4	(5)	318.8	3	7.1	10	28.8	4	4.8	13.6	13.2	10	3.21
Eastern Gas & Fuel	84.2	51	331.0	14	3.8	(5)	16.9	1	4.5	(5)	9.3	15	1.75
Essex International	188.8	22	696.4	17	9.4	18	37.1	21	5.0	5.2	17.1	10	4.02
Gulf Resources & Chemicals	[2] 32.8	11	127.2	9	1.1	(5)	3.5	(5)	3.4	(5)	12.9	17	.66
Kaiser Aluminum & Chemical	244.0	24	990.8	10	2.8	70	15.1	−44	1.2	.9	2.1	22	.62
Kennecott Copper	319.9	24	1,165.5	9	25.2	183	87.4	3	7.9	3.4	7.1	10	2.63
Martin Marietta Aluminum	52.2	−1	203.6	−1	−.7	(5)	1.8	−23	(5)	(5)	1.2	39	.23
Phelps Dodge	[2] 195.8	3	771.4	8	23.2	−2	82.2	11	11.8	12.5	11.4	11	4.01
Pittston	169.1	27	624.4	7	5.9	(5)	24.1	−32	3.5	.3	11.5	20	1.43
Reynolds Metals	290.9	9	1,182.2	6	2.4	(5)	.2	−97	.8	(5)	−.6	(5)	−.18
St. Joe Minerals	56.1	33	205.0	27	7.7	12	24.7	25	13.8	16.4	13.9	10	2.91
Universal Oil Products	170.1	−6	498.7	6	5.8	30	12.6	(5)	3.4	2.4	7.6	15	1.26
Industry composite	3,278.7	22	12,197.9	13	184.9	87	633.6	23	5.6	3.7	7.5	14	2.26
Miscellaneous Manufacturing:													
ACF Industries	88.0	0	347.6	4	5.3	9	19.0	21	6.0	5.7	9.5	12	3.40
Allied Products	50.8	12	207.0	18	1.0	81	4.2	54	2.0	1.2	9.0	8	2.15
Ametek	39.8	7	160.6	19	1.8	29	6.6	41	4.5	3.7	13.9	12	1.28
Amsted Industries [1]	82.8	20	320.2	14	2.7	20	12.7	19	3.2	3.3	9.3	8	4.57
Apache	34.3	32	125.4	25	1.6	24	5.4	22	4.5	4.8	11.5	9	1.64
Armstrong Cork	175.3	21	634.5	21	9.7	13	41.7	18	5.5	5.9	10.8	16	1.60
Athlone Industries	43.9	24	159.3	21	1.2	440	3.9	79	2.7	.6	9.7	6	2.20
Bangor Punta [1]	[2] 76.5	28	294.1	23	2.4	322	7.9	69	3.1	.9	6.3	9	1.58

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Miscellaneous manufacturing—Continued													
Bath Industries	$91.5	17	$345.2	19	$6.2	57	$23.4	96	6.7	5.0	38.0	9	2.95
Bemis	[2] 115.5	17	427.6	14	3.1	74	10.3	46	2.7	1.8	9.1	9	2.26
Carborundum	88.9	9	339.9	9	4.7	25	16.3	20	5.2	4.6	9.0	14	4.42
Ceco	57.1	9	217.2	6	2.5	1	8.5	6	4.4	4.7	12.9	8	2.45
Corning Glass Works	187.0	31	714.6	18	14.5	331	53.4	54	7.7	2.4	13.6	36	3.04
Dominion Bridge	100.1	5	236.6	1	2.6	57	7.6	22	2.6	1.7	8.3	[3]	2.91
Eagle-Picher Industries [10]	65.0	8	255.9	12	3.5	14	11.8	16	5.3	5.1	13.3	11	2.60
Handy & Herman	66.0	52	235.0	37	1.0	359	3.3	155	1.5	.9	10.2	13	1.41
Insilco	83.8	15	338.3	18	3.4	37	13.3	21	4.1	3.4	16.9	9	1.31
Instrument Systems [1]	46.9	—4	188.3	8	.5	4	1.5	—9	1.0	1.0	4.0	16	.16
Kroehler Manufacturing	32.7	8	129.0	8	1.3	—1	3.5	31	3.9	4.3	6.9	7	2.67
Lancaster Colony [6]	35.6	26	124.3	24	2.2	31	7.2	37	6.1	5.9	20.2	13	1.95
Lionel	[2] 45.9	31	105.3	31	2.4	47	1.7	46	5.3	4.7	10.7	14	.33
Ludlow	55.7	20	201.6	16	3.0	19	6.5	27	3.8	3.6	12.6	10	1.86
Microdot	48.3	33	181.5	14	2.3	52	7.7	28	4.8	4.2	19.5	8	1.84
Mohasco Industries	118.4	21	431.2	22	4.4	0	14.7	30	3.7	4.6	10.7	10	2.32
Monogram Industries [6]	42.1	8	163.2	15	1.4	15	5.4	63	3.4	3.1	9.2	8	1.06
Norton	100.6	18	374.4	8	2.8	—9	14.5	28	2.7	3.5	6.8	11	2.70
Philips Industries [4]	48.6	15	209.2	21	.6	—19	5.8	1	1.3	1.9	13.0	8	.98
Pittsburgh Des Moines Steel	56.0	—17	130.1	2	.8	61	2.5	104	1.4	.7	7.2	10	3.42
Porter (H.K.)	60.0	0	231.7	—9	1.0	16	1.1	—62	1.7	1.5	.4	[5]	.22
PPG Industries	363.4	15	1,395.9	13	22.0	32	82.7	31	6.1	5.3	11.7	9	3.99
Pullman	[2] 216.9	8	763.1	9	5.9	43	17.8	55	2.7	2.1	7.6	14	3.72
Scott & Fetzer [10]	59.7	20	223.6	20	5.3	18	17.7	20	8.8	9.0	26.6	15	2.41
Scovill Manufacturing	152.6	20	537.3	14	5.2	9	17.5	22	3.4	3.7	11.2	10	2.20
Simmons	87.5	11	342.6	9	3.8	33	12.6	20	4.4	3.7	10.2	11	1.90
Standard Pressed Steel	31.6	23	122.1	16	1.2	748	3.1	[5]	3.9	.6	5.2	14	.58
Stanley Works	106.4	[5]	399.0	21	6.0	[5]	19.9	26	5.6	[5]	13.1	14	2.57
Todd Shipyards [11]	[2] 42.6	32	180.7	43	—.1	[5]	—1.5	[5]	[5]	[5]	—2.8	[6]	—1.03
Trans Union	[2] 88.4	10	295.4	13	6.9	14	25.9	13	7.8	7.5	14.7	15	2.61
Tyler	38.2	19	151.5	18	2.0	4	8.1	24	5.2	5.9	20.6	8	2.69
U.S. Industries	392.9	6	1,578.5	12	18.2	—5	77.4	8	4.6	52	16.9	7	2.30
Vulcan Materials	68.8	14	287.3	11	4.8	17	17.1	30	7.0	6.8	14.5	9	2.90
Wheelabrator-Frye	49.0	36	174.0	18	2.7	59	8.0	51	5.5	4.7	10.9	16	1.01
Industry composite	3,835.4	16	14,309.8	15	172.5	32	627.9	30	4.5	3.9	11.7	11	2.31
Nonbank financial:													
American Investment	41.9	13	205.6	5	1.8	—23	7.7	11	4.4	6.4	9.5	8	1.29
Capital Holding	137.6	54	297.0	31	19.5	29	36.3	25	14.1	16.9	[3]	22	1.34
Crum & Foster	187.7	16	703.0	15	11.9	22	46.0	28	6.3	6.0	13.9	8	3.66
INA	437.7	22	1,623.9	21	27.0	2	106.9	12	6.2	7.4	10.5	9	4.43
Marlennan	[2] 51.9	9	198.6	10	5.6	1	25.4	3	10.8	12.0	25.3	18	1.90
Merrill Lynch	183.2	2	723.2	7	18.2	—13	70.1	—8	9.9	11.6	17.8	10	2.18
MGIC Investment	48.1	[5]	128.0	73	7.9	57	27.2	66	16.4	[5]	20.5	59	1.28
USLIFE	82.7	8	308.4	14	10.2	20	27.9	19	12.3	11.0	[3]	22	2.92
Industry composite	1,170.6	34	4,187.7	24	102.1	—2	364.3	13	8.7	9.0	[3]	23	2.22
Office equipment, computers:													
Addressograph-Multigraph [11]	106.0	12	448.6	9	1.5	10	16.8	188	1.4	1.5	8.3	11	2.09
Apeco [10]	30.1	1	120.5	10	.2	—86	3.6	—43	.8	5.7	8.3	17	.35
Burroughs	[2] 330.1	12	1,052.8	12	38.7	15	87.5	18	11.7	11.4	12.6	48	4.71
Control Data	203.1	22	664.0	16	15.8	61	60.5	69	7.7	5.8	8.7	12	3.99
Diebold	43.0	17	156.7	12	3.3	28	9.4	8	7.6	7.0	14.6	25	1.90
Digital Equipment [6]	60.0	34	216.0	34	4.6	26	16.7	42	7.7	8.1	11.7	57	1.59
Honeywell	631.2	9	2,125.4	9	37.2	6	76.6	17	5.9	6.1	10.6	27	4.08
International Business Machines	2,521.7	6	9,532.6	15	340.4	11	1,279.3	19	13.5	12.9	18.6	39	11.03
Moore	133.6	12	498.4	11	13.5	15	46.0	16	10.1	9.8	16.6	34	1.62
Nashua	52.1	32	170.6	19	3.2	36	9.7	21	6.1	5.9	17.6	25	2.15
National Cash Register	456.7	14	1,557.7	6	10.1	[5]	10.5	714	2.2	[5]	1.7	59	.47
Pitney-Bowes	98.1	17	342.1	14	4.2	24	13.6	10	4.3	4.1	9.0	17	1.02
SCM [6]	241.2	6	935.3	5	5.8	75	14.1	63	2.4	1.5	6.1	10	1.54
Standard Register	[2] 29.0	8	109.2	1	1.2	199	3.0	65	4.0	1.4	7.2	18	1.37
Uarco [1]	30.2	10	116.5	10	1.0	24	3.8	17	3.2	2.8	9.7	11	1.87
Xerox	654.0	26	2,420.0	23	66.0	16	249.5	17	10.1	11.0	21.9	50	3.16
Industry composite	5,620.0	11	20,467.4	4	546.4	20	1,900.8	21	9.7	9.0	15.9	28	5.24
Oil (crude, integrated domestic and international):													
Amerada Hess	[2] 374.0	[5]	1,341.4	—1	16.2	—41	81.1	—39	4.3	[5]	[5]	18	2.23
American Petrolina	72.4	8	284.8	4	5.3	44	18.1	38	7.3	5.4	12.8	15	2.35
Apco Oil	[2] 31.2	11	124.4	7	1.3	116	6.2	16	4.2	2.2	9.6	10	2.28
Ashland Oil [1]	483.7	12	1,837.3	10	22.6	15	71.2	65	4.7	4.5	19.5	10	2.76
Atlantic Richfield	[9] 1,013.6	6	3,827.7	5	62.2	11	192.5	—9	6.1	5.9	8.0	20	3.40
Cities Service	[1] 489.6	8	1,862.1	3	28.1	23	99.1	—5	5.7	5.0	7.1	13	3.84
Clark Oil & Refining	[2] 81.0	34	289.0	18	3.3	183	8.3	133	4.1	1.7	10.3	17	1.17
Commonwealth Oil Refining	84.4	20	299.8	17	—2.2	[5]	3.1	—81	[5]	4.0	.7	86	.08
Continental Oil	[15] 1,024.6	5	3,689.1	11	46.6	46	170.2	21	4.6	3.3	10.8	11	3.38
Crown Central Petroleum	[2] 48.7	18	184.0	2	.5	[5]	1.3	79	1.1	[5]	3.2	22	.90
Exxon	5,377.0	8	20,215.0	8	491.0	13	1,530.0	1	9.1	8.7	12.8	13	6.83
Getty Oil	365.2	10	1,405.3	5	24.5	—9	76.1	—37	6.7	8.1	5.3	28	3.98
Gulf Oil	[16] 1,955.0	3	7,733.9	5	116.0	8	472.0	—16	5.9	5.7	8.4	11	2.27
Kerr-McGee	169.2	11	679.6	13	13.8	26	50.6	24	8.2	7.2	13.2	33	2.14
Louisiana Land & Exploration	[2] 46.0	33	152.8	12	16.4	13	63.0	6	35.6	42.0	31.0	19	1.74
Marathon Oil	[2] 358.0	15	1,291.1	8	24.3	18	79.8	—10	.8	6.7	10.2	13	2.67
Mississippi River	[2] 40.4	—3	151.2	1	3.7	22	13.4	9	9.2	7.3	11.2	11	1.48
Mobil Oil	[15] 2,760.0	10	10,470.0	12	161.4	8	574.1	6	5.8	6.4	11.4	11	5.65
Murphy Oil	[21] 108.3	24	386.3	18	5.0	48	14.3	29	4.8	3.8	8.9	20	2.47
Pennzoil	[2] 218.4	19	814.8	11	14.4	21	58.7	24	6.7	6.6	9.7	14	1.80
Petrolane [1]	87.0	24	301.4	20	4.8	17	13.6	9	5.5	5.8	20.9	19	1.39
Phillips Petroleum	[2] 671.0	8	2,568.4	6	38.1	5	148.4	12	5.7	5.8	8.4	22	1.98
Quaker State Oil Refining	44.2	20	166.9	17	3.7	—14	15.2	10	8.3	11.7	20.6	34	1.09
SEDCO [6]	[2] 32.8	—5	133.1	16	5.0	33	15.4	27	15.1	10.9	15.2	33	1.60
Shell Oil	1,075.7	7	4,075.9	5	70.6	—21	280.5	7	6.6	8.8	9.1	13	3.86
Skelly Oil	137.2	7	525.4	4	12.8	15	37.6	—2	9.3	8.7	6.7	20	3.17
Standard Oil (California)	1,554.9	11	5,829.5	13	145.8	13	547.1	7	9.4	9.2	10.8	12	6.45

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Oil (crude, integrated domestic and international)—Continued													
Standard Oil (Indiana) [18]	$1,415.9	14	$5,477.0	10	$79.4	14	$374.7	10	5.6	5.6	10.2	16	5.37
Standard Oil (Ohio) [2]	389.6	8	1,458.9	4	19.3	5	59.7	1	5.0	5.1	5.7	20	4.39
Suburban Propane Gas	42.5	16	148.3	27	2.9	24	8.3	28	6.8	6.4	14.3	14	1.91
Sun Oil	550.8	22	1,940.0	5	47.0	15	155.2	2	8.5	9.0	13.6	14	3.41
Tesoro Petroleum [1]	57.7	22	220.7	25	4.4	37	14.3	49	7.7	6.8	17.5	13	2.82
Texaco	2,596.0	17	9,198.0	18	266.6	9	889.0	−2	10.3	11.0	12.8	12	3.27
Union Oil of California	655.4	(5)	2,129.9	6	32.8	8	121.9	6	5.9	(5)	9.5	11	3.45
Industry composite	24,309.6	12	91,512.1	9	1,787.6	9	6,244.1	0	7.4	7.6	10.9	19	3.83
Paper:													
Avery Products [11]	50.3	28	154.7	27	2.5	355	8.1	60	5.0	1.4	13.4	40	.90
Crown Zellerbach	291.3	12	1,107.6	12	12.3	90	44.1	39	4.2	2.5	7.6	14	1.63
Dennison Manufacturing	48.3	20	178.2	12	2.7	27	9.0	20	5.6	5.3	13.8	10	3.03
Domtar	146.0	6	562.2	3	5.4	20	17.4	36	3.7	3.3	7.4	16	1.14
Great Northern Nekoosa	112.9	12	409.8	11	5.5	16	10.2	21	4.3	4.6	7.8	14	3.35
Hammermill Paper	124.7	4	394.7	7	2.3	546	4.7	45	1.8	.3	2.8	22	.64
International Paper	527.8	5	2,093.3	6	30.7	68	102.7	50	5.6	3.6	3.3	17	2.30
Kimberly-Clark	263.5	11	1,014.0	8	15.4	136	55.7	76	5.3	2.7	9.9	16	2.39
Masonite [7]	64.9	13	255.6	(3)	7.4	4	26.6	(3)	1.4	12.3	16.2	16	1.69
Mead	281.6	16	1,128.5	7	6.3	27	28.0	12	2.2	2.0	4.4	14	1.08
Scott Paper	233.6	26	813.8	9	11.0	36	38.6	48	4.6	4.4	7.3	13	1.11
St. Regis Paper	277.0	14	1,026.5	12	13.0	35	41.3	93	4.7	2.9	7.7	13	2.92
Union Camp	156.2	22	601.6	16	10.3	61	38.8	49	6.6	5.0	13.0	18	2.57
Westvaco [8]	129.2	9	472.0	10	6.5	237	13.1	161	5.0	1.6	5.0	19	1.22
Industry composite	2,707.4	11	10,244.8	9	131.2	66	444.4	52	4.8	3.3	8.4	17	1.69
Personal care products: Cosmetics, soap, etc.:													
Alberto-Culver [1]	44.4	16	188.9	11	1.2	15	5.9	61	2.6	2.6	12.6	15	1.25
Avon Products	355.0	15	1,005.3	15	54.7	8	124.9	14	15.4	16.4	37.0	61	2.16
Chesebrough-Pond's	91.3	13	350.8	16	6.4	15	26.9	15	7.0	6.8	20.4	39	2.20
Clorox [6]	82.9	20	267.5	19	5.9	16	22.3	21	7.1	7.4	34.7	34	1.17
Colgate-Palmolive	454.4	14	1,807.6	13	19.1	19	67.5	19	4.2	4.0	17.8	29	3.21
Economics Laboratory [6]	44.8	24	169.6	23	2.7	18	10.4	20	5.9	6.2	17.7	47	.84
Gillette	240.0	17	870.6	19	20.3	11	75.0	20	3.5	8.9	24.0	23	2.54
International Flavors & Fragrances	33.5	17	137.8	23	5.2	20	21.5	28	15.6	15.2	21.7	75	1.21
Procter & Gamble [6]	913.3	12	3,681.9	11	70.9	8	290.1	14	7.8	8.0	18.4	30	3.64
Industry composite	2,259.7	0	8,480.0	10	186.3	13	644.7	17	8.2	6.1	19.9	36	2.90
Publishing: Periodicals, books, newspapers:													
Gannett	81.9	21	286.1	18	7.7	9	23.0	13	9.4	10.4	16.3	36	1.13
Groller	83.0	16	292.6	14	1.9	−39	9.6	−17	2.3	4.5	8.1	8	1.60
Knight Newspapers	85.6	13	310.4	14	7.0	32	20.8	31	8.1	6.9	17.0	26	2.00
MacMillan	116.6	9	393.9	2	6.7	56	14.9	44	5.8	4.0	6.4	9	1.00
McGraw-Hill	125.5	10	430.1	6	8.4	26	23.1	17	6.7	5.9	11.8	14	.92
Media General	32.0	16	118.5	1	2.8	18	8.0	10	8.6	8.5	12.1	18	2.22
Meredith [6]	39.6	3	162.6	9	0.8	42	4.7	28	2.1	1.5	7.3	9	1.67
New York Times	91.7	18	330.6	14	5.1	126	12.4	31	5.6	2.9	12.0	13	1.06
Prentice-Hall	39.4	13	144.1	7	5.4	10	17.1	3	13.6	14.1	21.7	14	1.65
Ridder Publications	38.6	10	142.9	10	3.3	−7	12.1	4	8.7	10.2	11.4	20	1.33
Time	66.5	(5)	511.0	10	13.6	(5)	28.8	11	20.5	(5)	11.4	10	3.96
Times Mirror	164.7	15	611.1	17	13.6	19	42.0	21	8.2	8.0	18.8	16	1.25
Washington Post	62.7	16	217.8	13	4.7	39	10.0	48	7.4	6.2	15.5	13	2.08
Industry composite	1,027.7	1	3,951.6	7	81.1	28	226.5	19	7.9	6.2	12.8	16	1.41
Radio and TV broadcasting:													
Capital Cities Broadcasting	32.5	16	118.5	21	5.1	18	17.0	30	15.7	15.4	22.8	23	2.29
Columbia Broadcasting System	418.7	13	1,403.2	11	29.4	28	82.9	28	7.0	6.2	22.1	15	2.88
Metromedia	56.4	31	181.9	19	6.3	80	12.5	63	11.2	8.1	15.2	10	2.05
Industry composite	507.5	15	1,703.6	12	40.8	32	112.4	31	8.0	7.0	21.1	16	2.66
Railroads:													
Burlington Northern	292.5	14	1,098.0	7	18.8	207	48.7	38	6.4	2.4	3.2	11	3.80
Missouri Pacific Railroad	166.2	8	642.9	7	4.7	(5)	16.6	43	2.8	(5)	3.2	9	8.73
Norfolk & Western Railroad	217.2	26	850.8	8	22.4	(5)	64.9	48	10.3	(5)	5.4	11	6.12
Rio Grande Industries	38.6	11	142.0	6	4.1	3	15.1	4	10.6	11.4	6.2	6	2.39
Santa Fe Industries	256.9	13	972.8	8	20.1	−13	81.0	21	7.8	10.2	6.0	8	3.23
Seaboard Coast Line Industries	291.3	11	1,122.2	6	22.3	91	82.4	28	7.7	4.5	8.9	7	5.96
Southern Pacific	334.8	8	1,290.9	9	32.2	2	106.2	7	9.6	10.2	6.4	9	4.06
Southern Railway	184.5	8	723.8	12	12.7	−14	59.4	13	6.9	8.7	6.9	10	3.94
Union Pacific	290.1	12	1,094.4	11	34.5	12	104.5	16	11.9	11 9	6.8	12	4.62
Industry composite	2,074.1	12	7,937.7	8	171.9	45	580.9	21	8.3	6.4	5.9	9	4.72
Retailing: Department, discount, mail order, variety, food, specialty stores:													
Albertson's [6]	180.3	31	651.3	22	2.0	25	7.2	25	1.1	1.2	16.9	14	1.25
Allied Stores [15]	337.8	10	1,410.5	11	2.7	182	24.0	50	.8	.3	8.0	10	2.80
Allied Supermarkets [6]	237.7	6	997.0	5	1.0	47	2.0	(5)	.4	.3	5.3	12	.38
Amfac	229.4	43	750.2	30	6.6	20	24.7	27	2.9	3.4	14.0	12	2.16
Associated Dry Goods [15]	271.0	6	1,022.8	5	9.3	24	36.6	12	3.4	2.9	12.4	16	2.78
Big Bear Stores [12]	65.6	25	233.9	17	1.3	18	3.6	−9	2.0	2.1	12.6	8	2.90
Broadway-Hale Stores [15]	209.3	17	876.3	18	6.3	23	31.1	22	3.0	2.9	18.2	23	1.67
Colonial Stores	173.1	5	722.2	4	2.5	−18	9.1	−10	1.4	1.8	11.3	9	2.09
Cook United	146.5	10	514.5	9	3.9	−16	6.9	−3	2.7	3.5	9.1	7	1.50
Cunningham Drug Stores [1]	29.9	20	95.6	11	.7	19	.9	56	2.4	2.4	4.0	10	.79
Daylin [7]	133.1	27	509.3	35	2.3	19	9.9	30	1.8	1.9	13.3	8	1.64
Dayton-Hudson [15]	312.8	17	1,221.6	14	3.9	10	26.4	21	1.2	1.3	8.9	12	1.63
Dillon [6]	156.7	57	481.7	29	2.7	48	8.5	31	1.7	1.8	22.2	20	1.73
Drug Fair [6]	45.0	4	162.5	8	.4	−63	1.2	−45	.9	2.6	8.3	10	.81
Eckerd Drugs [4]	46.5	18	144.9	16	2.1	14	5.5	23	4.6	4.7	22.3	26	1.19
Edison Brothers Stores	98.6	12	333.1	15	5.2	19	12.1	19	5.3	5.0	14.9	12	2.87

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Retailing Department, discount, mail order, variety, food, specialty stores—Continued													
d-Mart [7]	$52.5	21	$222.9	23	$0.6	60	$2.9	125	1.2	0.9	14.0	8	2.12
Federated Dept. Stores [15]	626.9	13	2,537.5	13	26.2	13	102.5	14	4.2	4.0	13.8	21	2.39
First National Stores [4]	213.2	−1	844.5	−2	.2	(5)	−.1	(5)	.1	(5)	−.1	(5)	−.08
Food Fair Stores [11]	603.4	3	1,964.8	0	1.6	−56	5.0	−54	.3	.6	3.8	14	.65
Franklin Stores [6]	57.3	12	162.5	7	1.9	10	2.8	16	3.2	3.3	9.1	7	1.70
Gamble-Skogmo [15]	348.0	4	1,321.9	0	4.6	12	21.2	23	1.3	1.2	7.7	8	3.82
Giant Food [12]	132.1	9	582.2	15	1.4	−15	6.5	2	1.1	1.3	13.5	8	2.13
Gimbel Brothers [15]	202.3	10	797.3	7	3.4	24	13.0	10	1.7	1.5	5.9	16	1.53
Gordon Jewelry [7]	32.8	20	127.7	17	1.3	34	6.8	16	3.9	3.5	11.7	15	1.25
Grand Union [13]	340.4	5	1,333.3	4	1.9	−42	9.0	−40	.6	1.0	5.9	11	1.40
Grant (W.T.) [15]	403.1	23	1,549.6	16	2.3	97	33.1	−7	.6	.4	11.2	13	2.36
Great Atlantic & Pacific Tea [13]	1,609.2	17	6,085.2	10	−8.4	(5)	−51.6	(5)	(5)	(5)	−8.1	(5)	−2.08
Great Scott Supermarkets [1]	65.2	13	247.3	11	.4	52	1.6	31	.6	.5	15.0	8	1.12
Interstate Stores [15]	158.2	−2	580.6	−1	−3.8	(5)	−4.4	(5)	(5)	(5)	−4.9	(5)	−.81
Interstate United [6]	43.0	17	176.7	11	.8	44	3.1	82	1.9	1.6	8.3	7	1.06
Jewel [15]	448.1	9	1,928.7	9	5.1	7	28.6	13	1.1	1.2	13.2	13	3.85
Kresge (S.S.) [16]	916.7	23	3,581.9	19	22.3	13	103.8	25	2.4	2.7	18.9	48	.92
Kroger	946.5	10	3,790.5	2	12.9	12	23.2	−36	1.4	1.3	6.5	12	1.73
Kuhns Big K Stores	37.4	(5)	95.9	34	2.0	(5)	2.7	55	5.5	(5)	23.1	11	1.56
Lerner Stores [15]	110.6	19	417.9	12	5.9	60	20.0	27	5.3	4.0	26.2	10	4.62
Lucky Stores [15]	490.1	11	1,923.9	7	6.7	−11	29.5	−10	1.4	1.7	24.2	14	.94
Macke [1]	[3] 37.9	11	143.9	7	.8	21	3.2	66	2.2	2.1	8.5	9	1.03
Macy (R.H.) [11]	269.4	9	1,063.6	9	6.2	16	28.6	17	2.3	2.2	11.6	14	2.84
Marcor [13]	872.0	16	3,247.6	10	15.4	49	65.8	16	1.8	1.4	8.5	13	1.93
Marshall Field [15]	121.7	6	484.4	6	5.0	16	20.0	15	4.1	3.8	10.5	14	2.18
May Department Stores [15]	348.2	11	1,422.1	12	10.2	23	44.4	18	2.9	2.6	10.5	14	2.90
McCrory [15]	313.1	40	1,070.9	15	2.1	31	16.3	4	.7	.7	26.7	6	4.06
Mercantile Stores [15]	112.4	19	434.8	14	4.7	21	18.5	12	4.2	4.1	15.1	25	6.28
Murphy (G. C.)	147.8	5	428.6	4	4.8	−4	7.9	−5	3.2	3.5	7.2	10	2.00
National Tea [4]	354.0	−7	1,544.6	−6	.1	−98	.9	−90	----------	.6	.7	59	.12
New Process	33.9	7	123.2	1	2.2	−45	7.5	−33	6.5	12.6	33.5	16	.75
Penn Fruit [7]	75.5	−11	356.5	−5	−.7	(5)	−.9	(5)	(5)	.7	−3.8	(5)	−.68
Penney (J. C.) [15]	1,404.6	17	5,305.2	11	44.4	19	150.0	18	3.2	3.1	16.4	35	2.64
Peoples Drug Stores	68.6	6	238.0	8	1.3	−33	1.3	−50	1.9	2.9	3.7	17	.53
Pneumo Dynamics [10]	[3] 62.7	(5)	279.0	19	----------	(5)	−.1	(5)	(5)	(5)	−1.0	(5)	−.16
Pueblo International [15]	127.0	11	482.7	4	−.4	(5)	1.6	−73	(5)	1.3	3.6	15	.36
Rapid-American [15]	588.5	20	2,531.8	23	5.4	52	28.1	98	.9	.7	13.6	5	3.43
Revco (D.S.) [14]	64.4	12	235.3	15	2.1	13	8.2	17	3.3	3.3	24.1	31	1.54
Rite Aid	53.0	31	196.2	40	2.4	43	8.1	51	4.6	4.2	23.6	57	.81
Ruddick [12]	50.5	6	202.4	5	.3	−71	1.9	−43	.5	1.8	4.7	8	.46
Safeway Stores	1,933.8	13	6,057.6	13	31.9	14	91.1	14	1.6	1.6	15.8	11	3.57
Sears, Roebuck [15]	2,829.9	12	10,706.8	10	141.6	14	588.3	15	5.0	4.9	14.4	29	3.77
Skaggs	114.9	14	357.4	12	3.2	26	4.6	−11	2.8	2.6	8.2	23	.93
Southland	318.5	14	1,228.0	14	5.1	19	20.3	18	1.6	1.5	14.4	21	1.32
Star Supermarkets	41.8	23	126.6	19	.3	3	.8	−14	.6	.8	9.0	7	1.39
Stop & Shop [15]	225.0	7	963.7	10	1.1	34	4.6	37	.5	.4	7.5	11	1.45
Supermarkets General [15]	292.4	22	1,115.8	21	.3	−86	4.3	−53	.1	1.0	7.5	22	.50
Tandy [6]	161.7	22	470.5	21	9.4	28	18.4	32	5.8	5.5	10.7	19	1.68
Thriftimart [4]	65.0	−1	257.5	−1	.5	(5)	−.1	(5)	.7	(5)	−.3	(5)	−.11
Thrifty Drug Stores [7]	93.4	10	396.6	9	1.5	4	9.0	9	1.6	1.7	12.9	10	.93
Vornado [15]	182.7	−13	802.7	−11	2.4	−6	11.1	0	1.3	1.2	8.5	7	1.83
Walgreen [1]	272.7	11	889.5	7	6.3	18	12.4	14	2.3	2.2	11.2	10	1.92
Weis Markets	68.0	20	240.0	11	3.1	10	9.8	1	4.8	5.0	17.5	12	1.61
Wickes [15]	237.1	35	779.0	33	5.8	36	15.2	32	2.5	2.4	10.8	12	1.82
Winn-Dixie Stores [4]	623.5	13	1,952.7	13	11.6	10	40.7	11	1.8	1.9	21.5	19	2.03
Woolworth (F. W.)	1,063.7	9	3,148.1	12	49.9	5	79.2	3	4.7	4.9	9.2	9	2.60
Zale [4]	191.3	11	489.9	11	15.5	20	25.7	33	8.1	7.5	13.0	16	1.97
Zayre [15]	224.3	14	882.4	16	2.4	24	11.3	36	1.1	1.0	13.6	9	2.31
Industry composite	24,559.6	13	91,054.7	10	540.4	11	1,927.0	7	2.2	2.2	11.8	15	2.04
Savings and loan:													
First Charter Financial	71.9	17	268.3	20	12.4	1	46.6	16	17.2	20.0	14.3	11	1.92
Great Western Financial	76.9	15	291.6	13	10.5	26	37.3	23	13.6	12.4	13.1	10	2.50
Imperial Corporation of America	47.0	23	173.3	20	6.7	37	22.8	35	14.2	12.8	14.7	8	1.61
Industry composite	195.9	17	733.3	17	29.5	16	106.6	22	15.1	15.3	14.0	9	2.01
Service industries (leasing, vending machines, wholesaling, real estate builders and developers, etc.):													
Alco Standard [1]	[3] 171.5	16	672.8	10	3.7	72	13.9	−9	2.2	1.5	15.0	7	1.20
Alpha Portland Industries	[3] 36.0	40	139.7	30	.7	−20	3.5	60	2.0	3.5	7.8	8	1.82
American District Telegraph	[3] 33.3	11	129.1	1	2.7	12	9.6	11	8.0	8.0	11.4	31	1.77
American Medical International [7]	34.5	15	137.3	63	2.4	18	9.4	63	7.0	6.8	15.2	16	1.42
American Medicorp	49.6	17	191.4	15	2.4	19	10.0	13	4.9	4.8	8.3	8	1.01
APL [6]	43.4	11	158.3	11	1.2	12	3.9	10	2.8	2.8	13.8	9	1.80
Arcata National [8]	[3] 60.0	15	221.3	10	1.3	34	6.8	76	2.2	1.9	10.6	10	.87
Baldwin (D.H.)	[3] 43.7	−2	153.8	16	2.8	16	9.8	39	6.3	5.3	20.8	10	3.44
Bergen Brunswig [7]	61.3	+2	240.3	1	.5	12	.6	(5)	.9	.8	−89.9	(5)	60
Castle (A.M.)	31.5	25	120.4	19	.5	103	1.3	91	1.7	1.0	6.9	7	2.75
Centex [4]	72.9	+1	264.2	11	4.2	23	14.1	23	5.8	4.7	27.4	19	.99
Commercial Metals [7]	50.7	36	213.7	12	.7	160	2.7	116	1.4	.7	10.4	8	1.81
Computer Sciences [4]	[3] 35.6	17	132.4	4	−.3	(5)	−41.5	(5)	(5)	3.8	156.0	(5)	−3.09
Di Giorgio	110.5	+2	459.8	5	1.5	9	8.1	22	1.4	1.2	12.8	9	1.34
Dillingham	142.2	+1	533.3	1	2.8	(5)	7.9	258	1.5	(5)	4.6	18	.56
Donnelley (R. R.) Sons	103.8	14	353.6	4	8.4	24	26.1	7	8.1	7.5	10.9	17	1.37
Dravo	175.0	−22	378.8	−12	2.4	39	6.4	19	1.3	.8	7.8	9	2.92
Dun & Bradstreet	109.2	14	400.3	12	9.9	16	34.0	15	9.1	9.0	23.8	29	2.63
Emery Air Freight	40.6	29	141.6	24	2.7	52	8.2	42	6.6	5.6	41.2	60	1.07
Engelhard Mineral & Chemical	647.6	20	1,930.4	24	10.5	8	36.6	17	1.6	1.8	15.1	16	1.28
Fischbach & Moore [1]	[3] 84.2	12	360.2	13	1.7	11	7.2	14	2.0	2.1	19.3	23	2.63
Fleming	227.0	20	871.7	12	1.7	24	6.4	18	.8	.7	14.9	9	1.20
Foremost-McKesson [4]	542.4	−2	2,006.7	5	8.7	−2	31.8	4	1.6	1.6	17.0	8	2.12
Genuine Parts	111.8	13	450.5	13	6.6	−4	17.6	5	5.9	6.9	17.5	39	1.13
Grainger (W.W.)	55.6	30	198.7	23	4.0	40	12.4	32	7.3	6.8	22.6	37	1.00
Interphoto [15]	32.9	2	102.8	34	.3	−47	.8	−5	1.0	2.0	4.8	6	.75

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqv. 12 months ending Dec. 31	P-E 2-28	12 months earnings per share
Service industries (leasing, vending machines, wholesaling, real estate builders and developers, etc.)—Continued													
Interpublic Group	$51.3	(5)	$136.6	6	$3.3	(5)	$6.3	26	6.5	(5)	26.1	7	2.38
Itel	37.5	86	100.1	−1	4.0	62	1.4	−84	10.7	12.3	3.1	43	.20
Jorgensen (Earle M.)	35.0	27	131.7	20	1.4	0	5.0	43	4.1	5.2	11.1	8	3.32
Kaufman & Broad [10]	84.5	17	284.0	25	6.0	98	19.5	97	7.2	4.3	22.4	27	1.26
Leasco	[2] 169.5	9	653.8	9	7.1	−31	36.5	22	4.2	6.6	14.7	6	2.25
Malone & Hyde [6]	134.6	13	546.7	12	1.8	11	7.2	12	1.4	1.4	17.9	25	1.23
Manpower [6]	[2] 29.4	19	117.5	17	.9	66	3.2	50	3.0	2.1	15.1	16	1.70
Morrison-Knudsen	83.4	−17	371.9	−22	1.7	−25	6.6	23	2.0	2.2	8.6	7	2.56
Morse Electric Products [4]	52.7	48	149.9	53	2.1	63	5.4	68	4.0	3.7	19.4	12	1.93
National Service Industries [7]	103.6	11	408.5	12	5.0	2	22.6	7	4.8	5.3	18.8	15	1.57
Nielsen (A.C.) [7]	34.9	18	133.1	15	2.9	42	10.7	24	8.3	6.9	18.1	38	1.01
Ogden	261.3	12	1,073.1	3	6.2	66	20.7	28	2.4	1.6	9.9	7	1.76
Parsons (Ralph M.)	54.5	−58	215.0	−54	1.2	37	2.9	−2	2.1	.7	13.8	15	1.31
Raymond International	29.4	−34	120.8	−27	.7	224	2.1	73	2.4	.5	5.5	12	.76
Retail Credit	49.2	1	195.3	0	2.3	−11	9.2	−6	4.6	5.2	20.5	11	2.86
Ryan Homes	42.3	25	150.4	26	2.4	23	8.2	26	5.6	5.7	25.0	15	1.26
Ryder Systems	105.2	32	369.6	24	4.8	32	16.7	33	4.6	4.6	16.7	31	1.35
Sav-A-Stop [7]	52.1	21	193.9	16	1.0	7	2.9	11	1.8	2.1	11.0	11	.73
Scot Lad Foods [6]	156.7	4	609.8	6	1.3	0	5.4	5	.8	.9	15.4	7	2.43
Scrivner-Boogaan [6]	56.3	17	167.7	11	.4	−18	1.2	−4	.7	.9	12.4	9	1.09
Servomation [6]	[2] 82.1	10	311.2	5	2.9	20	10.4	19	3.6	3.3	13.1	11	1.91
Sperry & Hutchinson	[2] 160.6	3	606.7	6	13.0	12	39.4	4	8.1	6.5	17.8	7	3.59
Super Valu Stores [13]	291.0	22	1,203.2	26	2.1	24	9.2	28	.7	.7	20.9	10	2.28
Superscope	32.0	24	84.7	27	2.9	79	5.6	64	8.9	6.2	19.4	10	2.45
Thompson (J. Walter)	34.9	2	115.8	−1	2.7	−15	5.5	−28	7.8	9.4	10.8	9	2.06
Triangle-Pacific Forest Products	49.9	37	184.0	30	.8	29	4.5	34	1.7	1.8	14.6	7	2.43
U.S. Freight	109.8	5	425.6	5	3.2	−1	12.1	18	2.9	3.1	13.8	11	1.86
U.S. Home [13]	86.1	23	313.4	51	4.8	20	14.9	42	5.5	4.7	26.5	8	1.77
VWR United [13]	78.1	14	292.3	14	1.1	254	1.7	−20	1.4	.4	4.1	16	.68
Warner Communications	144.2	29	510.3	33	12.3	15	50.1	20	8.5	9.5	27.4	13	2.20
Zapata [1]	56.7	10	227.6	7	4.4	15	17.6	19	7.8	7.4	13.1	9	3.21
Industry composite	5,855.6	13	21,364.2	11	191.0	15	611.3	9	3.3	3.1	14.0	15	1.45
Special machinery (farm, construction, materials handling):													
Allis-Chalmers	255.4	12	960.3	3	1.8	112	8.7	30	.7	.4	2.0	14	.70
American Hoist & Derrick [10]	43.9	30	214.7	20	1.4	110	5.0	86	3.1	1.9	8.6	10	1.31
Bucyrus-Erie	42.1	−3	167.9	−9	3.5	4	14.5	18	8.3	7.8	14.0	12	2.21
Caterpillar Tractor	649.3	29	2,602.2	20	50.8	107	206.4	61	7.8	4.9	18.9	18	3.62
Clark Equipment	233.8	11	897.6	21	14.0	46	42.9	48	6.0	4.5	15.3	15	3.20
Deere [8]	425.1	29	1,500.2	26	35.3	34	112.2	77	8.3	8.0	14.6	12	3.82
FMC	392.5	14	1,497.7	11	16.0	139	69.1	40	4.1	2.0	11.6	9	2.03
Koehring [10]	78.6	26	288.5	20	3.2	217	6.2	141	4.1	1.6	7.2	10	1.60
Industry composite	2,120.7	21	8,129.2	17	125.9	71	465.1	58	5.9	4.1	14.0	13	2.92
Steel:													
Alan Wood Steel	32.6	22	119.1	1	.7	(5)	1.2	137	2.1	(5)	2.5	14	1.34
Allegheny Ludlum Industries	150.5	41	571.7	18	4.8	(5)	17.7	(5)	3.2	(5)	9.4	10	2.45
Armco Steel	506.7	26	1,910.8	13	21.5	72	75.6	49	4.2	3.1	6.6	9	2.28
Bethlehem Steel	867.9	40	3,113.6	5	52.4	1	134.6	−3	6.0	8.4	6.4	9	3.02
Carpenter Technology [6]	[2] 46.9	32	176.4	17	3.3	335	10.7	157	6.9	2.1	10.4	9	2.51
Copperweld Steel	48.2	66	184.5	25	3.6	38	9.7	42	7.5	9.0	15.3	7	3.99
Cyclops	119.8	75	414.0	22	4.8	(5)	7.7	86	4.0	(5)	6.1	8	3.22
Gable Industries [6]	31.1	153	129.8	111	1.7	95	5.8	75	5.4	7.1	(5)	8	2.43
Harsco	94.0	18	352.1	10	5.0	7	18.1	12	5.3	5.8	11.9	8	2.29
Inland Steel	385.7	35	1,469.8	17	16.8	46	65.9	38	4.4	4.0	8.4	9	3.43
Interlake	102.2	29	387.7	10	3.3	50	13.0	4	3.3	2.8	6.1	8	3.26
Jones & Laughlin Steel	323.8	50	1,189.4	11	11.9	(5)	39.3	155	3.7	(5)	5.7	8	2.43
Kaiser Steel	112.1	23	447.2	5	3.5	(5)	−3.6	(5)	3.1	.2	−1.8	(5)	.71
Keystone Construction Industries [6]	58.1	13	241.3	16	.7	−12	3.9	134	1.1	1.5	4.3	8	2.08
Lukens Steel	40.4	16	152.8	−2	1.9	48	6.5	82	4.8	3.8	7.3	9	2.52
Lykes-Youngstown	[2] 269.2	46	1,018.9	11	10.1	436	17.6	56	3.7	1.0	1.5	22	.43
McLouth Steel	77.6	26	292.0	13	1.5	(5)	4.5	(5)	2.0	(5)	3.0	13	1.26
National Steel	[2] 417.3	25	1,660.2	8	15.7	221	67.1	46	3.8	1.5	7.1	11	3.59
NVF	87.8	17	341.4	14	2.5	(5)	8.8	85	2.9	.3	16.3	3	5.72
Republic Steel	423.1	65	1,595.7	15	6.1	(5)	43.1	(5)	1.9	(5)	4.2	10	2.66
United States Steel	[2] 1,518.8	40	5,428.9	9	54.7	18	157.0	2	3.6	4.3	4.3	10	2.90
Wheeling-Pittsburgh Steel	163.5	55	607.8	15	1.8	(5)	13.2	181	1.0	(5)	3.8	7	2.78
Industry composite	5,877.3	39	21,805.1	11	230.1	98	177.2	38	3.9	2.7	5.6	10	2.67
Textiles and apparel:													
Avondale Mills [7]	46.8	16	159.6	9	1.9	32	5.7	−2	4.0	3.5	8.9	12	3.32
Blue Bell [1]	74.9	13	353.1	13	2.0	18	15.3	9	2.7	2.6	14.0	11	2.56
Brown Group [8]	161.9	18	567.1	12	7.5	15	22.8	11	4.7	4.8	13.4	10	3.08
Burlington Industries [1]	479.0	9	1,857.0	7	16.1	38	54.0	40	3.4	2.7	7.1	15	2.03
Chelsea Industries [1]	45.5	1	174.3	23	1.2	10	4.2	36	2.6	2.3	13.9	6	1.52
Cluett, Peabody	152.6	2	547.2	10	4.3	10	13.7	18	2.8	2.6	8.6	10	1.38
Collins & Aikman [13]	83.7	1	314.0	5	3.9	−22	16.4	−7	4.6	6.0	16.1	9	1.44
Cone Mills	78.9	5	331.2	4	1.8	−26	8.2	17	2.3	3.2	6.0	7	2.67
Dan River	103.6	27	366.6	17	1.5	(5)	4.0	(5)	1.4	(5)	2.9	15	.65
DHJ Industries [14]	36.8	26	131.7	31	.8	−22	.9	−73	2.2	3.8	3.9	20	.56
Duplen [1]	34.8	3	137.5	(3)	.8	−12	1.7	(3)	2.4	2.8	3.7	18	.60
Fieldcrest Mills	72.7	6	243.7	7	2.4	−28	7.5	−6	3.3	4.9	9.0	10	2.10
Genesco [11]	373.5	9	1,425.0	7	6.9	−26	11.1	(5)	1.9	2.7	3.8	21	.67
Graniteville	41.4	12	161.7	20	2.1	119	51	37	5.0	2.5	9.0	7	3.12
Hanes	67.7	25	244.6	39	2.9	32	8.2	138	4.2	4.0	9.7	7	1.92
Hart Schaffner & Marx [10]	117.4	18	423.1	14	4.3	40	14.2	37	3.7	3.1	9.6	14	1.61
Interco [10]	260.6	14	981.1	11	11.5	16	37.7	15	4.4	4.3	15.7	14	3.72
Jonathan Logan	88.9	8	332.2	10	4.3	10	18.4	12	4.8	4.7	16.5	15	3.49
Kayser-Roth [6]	139.7	8	537.3	10	3.9	10	14.2	5	2.8	2.8	8.4	7	2.30
Levi Strauss [10]	133.2	14	504.1	17	4.4	29	25.0	27	3.3	3.0	18.5	16	2.30
Melville Shoe	224.9	(5)	631.9	14	13.6	(5)	29.0	12	6.0	(5)	25.9	22	1.18
Oxford Industries [14]	53.2	10	197.0	12	1.6	57	6.4	31	3.0	2.1	16.0	7	2.75

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Textiles and apparel—Continued													
Puritan Fashions [10]	$35.0	(3)	$142.4	21	$1.8	(3)	$5.5	22	5.2	(3)	26.4	5	1.71
Reeves Bros. [6]	53.1	20	199.1	12	1.4	25	5.6	3	2.7	2.6	9.1	3	3.54
Riegel Textile [1]	53.0	12	208.5	17	1.6	83	5.3	70	3.1	1.9	8.2	8	2.09
Springs Mills	115.6	17	398.9	22	6.2	88	14.2	69	5.4	3.3	6.6	8	1.64
Stevens (J. P.) [8]	276.6	15	947.6	15	5.6	8	15.6	120	2.0	2.2	4.1	11	2.56
United Merchants & Manufacturers [6]	227.8	5	799.0	4	7.1	3	15.5	8	3.1	3.2	5.7	8	2.54
Warnaco	63.2	18	282.5	16	3.9	27	9.2	39	4.7	4.3	13.5	7	2.30
West Point-Pepperell Manufacturer	107.9	16	422.8	17	3.4	56	11.4	60	3.2	2.4	5.9	10	2.41
Industry composite	3,825.9	13	14,022.9	11	130.9	19	406.3	18	3.4	3.3	9.1	11	1.95
Tire and rubber:													
Amerace Esna	47.9	14	187.0	15	2.5	3	8.7	15	5.3	5.9	28.4	9	2.65
Armstrong Rubber [1]	50.3	12	217.4	14	1.6	15	7.7	13	3.2	3.1	9.4	7	4.49
Cooper Tire & Rubber	31.7	19	134.0	16	1.0	163	4.3	77	3.0	1.4	13.3	9	2.10
Firestone Tire & Rubber [8]	774.7	12	2,691.0	8	44.7	36	135.8	20	5.8	4.8	11.1	10	2.36
General Tire & Rubber [10]	327.6	26	1,093.5	10	18.4	19	64.3	37	5.6	5.9	13.6	7	3.26
Goodrich (B. F.)	397.8	26	1,506.8	22	12.7	101	49.0	49	3.2	2.0	7.9	8	3.33
Goodyear Tire & Rubber	1,085.5	16	4,071.5	13	56.4	16	193.2	13	5.2	5.2	12.7	10	2.65
Richardson	31.1	3	118.9	11	1.8	47	3.9	46	5.2	3.7	154	8	1.83
Uniroyal	460.4	15	1,798.9	7	10.7	9	46.7	8	2.3	2.5	8.2	9	1.55
Industry composite	3,206.9	17	11,819.0	12	149.7	26	513.5	20	4.7	4.3	11.2	8	2.53
Tobacco (cigars, cigarettes):													
American Brands	[9] 759.9	0	2,998.9	6	29.8	7	123.3	3	3.9	3.7	13.6	9	4.52
Liggett & Myers	[9] 194.3	−3	753.6	0	9.6	12	30.0	−16	4.9	4.3	9.0	11	3.49
Loews [7]	[10] 182.8	−5	796.8	1	17.9	13	68.8	34	9.8	8.2	18.1	8	4.71
Phillip Morris	[10] 557.3	16	2,131.2	15	30.7	17	124.5	23	5.5	5.5	21.4	27	4.67
Reynolds (R.J.) Industries	[9] 777.1	13	2,957.6	6	61.1	12	237.5	5	7.9	7.9	17.8	9	5.32
Industry composite	2,471.4	6	9,638.2	7	149.1	12	584.0	9	6.0	5.7	16.6	13	4.79
Trucking:													
Consolidated Freightways	158.6	25	591.1	23	6.0	5	23.2	13	3.8	4.5	21.2	9	1.98
McLean Trucking [6]	56.6	23	211.1	17	2.2	26	9.2	24	3.9	3.8	22.6	15	3.30
Roadway Express	123.4	25	373.5	23	7.3	16	23.6	30	5.9	6.4	27.5	25	1.20
Smith's Transfer	32.9	17	99.6	13	1.8	33	4.9	11	5.5	4.9	23.5	9	2.12
Spector Industries	33.0	15	125.3	9	0.0	−98	0.3	80	0.0	1.2	4.3	18	0.32
T.I.M.E.-DC	42.5	3	157.6	2	1.1	−13	3.0	−21	2.5	2.9	9.2	10	0.90
Transcon Lines	33.0	13	128.6	17	1.5	−2	3.4	−31	4.6	5.3	11.4	12	1.10
Yellow Freight Systems	68.7	21	258.6	20	3.7	5	15.6	20	5.5	6.3	26.5	21	2.22
Industry composite	548.7	20	1,945.5	18	23.7	8	83.4	15	4.3	4.8	21.8	15	1.63
Utilities (telephone, electric, gas):													
Alaska Interstate	[9] 34.1	14	146.7	39	0.7	−54	5.2	25	2.1	5.3	11.1	16	1.61
American Electric Power	227.4	20	860.6	15	45.1	18	176.0	22	19.8	20.3	15.1	10	2.63
American Natural Gas	194.3	22	724.4	15	18.4	13	72.3	20	9.5	10.2	13.9	9	4.19
American Tel. & Telegraph [10]	5,424.6	15	20,702.0	13	676.9	25	2,207.8	13	12.5	11.5	9.3	12	4.30
Arkansas Louisiana Gas	57.8	10	248.0	3	6.7	72	24.8	5	11.5	7.4	13.4	10	2.46
Baltimore Gas & Electric	108.2	13	424.8	11	17.1	6	74.9	17	15.3	16.9	13.0	10	2.83
Boston Edison	68.1	4	269.8	4	9.1	5	33.6	8	13.3	13.2	12.3	10	3.55
Carolina Power & Light	80.6	20	307.1	20	16.8	35	60.5	62	20.9	18.5	17.5	9	2.86
Central & South West	109.1	14	438.4	13	17.7	9	75.2	8	16.2	17.0	15.5	14	3.25
Cincinnati Gas & Electric	85.8	19	326.0	11	12.6	69	47.1	25	14.7	10.4	15.7	10	2.35
Cleveland Electric Illuminating	74.7	11	293.3	8	13.0	24	49.1	18	17.5	16.6	14.4	11	3.22
Columbia Gas System	279.2	14	1,016.2	10	29.5	20	101.8	13	10.6	10.0	12.9	10	3.20
Commonwealth Edison	291.6	15	1,140.2	15	45.1	16	173.7	20	15.5	15.4	14.6	11	3.13
Consolidated Edison of NY	379.5	13	1,479.9	13	27.8	−32	148.1	2	7.3	12.1	7.4	12	2.07
Consolidated Natural Gas	214.3	24	741.2	11	15.6	41	62.5	5	7.3	6.4	10.2	9	3.30
Consumers Power	202.3	23	750.5	15	17.7	30	78.2	9	8.8	8.3	10.3	11	2.72
Continental Telephone	128.6	20	476.9	12	15.6	34	52.6	18	12.1	10.9	14.9	14	1.80
Dayton Power & Light	57.4	15	220.2	8	7.2	45	27.1	9	12.5	9.9	12.7	11	2.15
Detroit Edison	176.8	15	673.6	12	25.4	17	95.2	28	14.4	14.1	11.5	10	2.09
Duke Power	131.0	13	508.2	13	21.1	−1	80.4	12	16.1	18.3	9.1	13	1.68
Duquesne Light	56.9	12	220.8	12	11.3	6	46.0	16	19.9	21.0	13.4	10	2.34
El Paso Natural Gas	282.8	4	1,097.1	6	9.9	−30	63.9	11	3.5	5.2	12.7	8	2.05
Florida Power & Light	155.0	19	570.8	18	26.4	6	89.8	14	17.1	19.3	14.7	14	2.89
Florida Power	52.5	18	201.9	14	12.2	16	42.0	19	23.3	23.6	14.9	12	3.54
General Public Utilities	151.8	15	579.3	14	27.2	59	98.7	34	17.9	13.0	11.5	10	2.21
General Telephone & Electronics	1,195.8	15	4,326.7	13	91.5	16	301.3	15	7.7	7.6	13.6	11	2.60
Gulf States Utilities	61.9	19	240.0	14	11.2	37	45.2	16	18.0	15.6	13.5	12	1.59
Houston Lighting & Power	91.2	16	363.6	14	14.3	6	65.7	10	15.7	17.1	15.5	15	3.10
Illinois Power	69.9	17	272.7	11	8.1	18	41.2	11	11.5	11.5	13.6	13	2.38
Lone Star Gas	77.8	31	298.8	15	9.2	32	37.6	13	11.8	11.7	16.0	14	2.53
Long Island Lighting	98.0	13	389.8	13	12.4	12	56.2	12	12.7	12.8	13.5	10	2.20
Mapco	38.4	41	110.6	17	5.0	26	13.1	26	13.1	14.6	17.8	25	1.41
Middle South Utilities	152.0	14	593.4	17	23.3	26	90.4	21	15.3	14.0	14.4	12	1.98
Mountain States Tel. & Tel. [10]	233.1	14	890.8	12	30.9	22	113.5	7	13.3	12.4	10.5	10	2.14
National Fuel Gas	74.1	24	238.4	14	8.6	48	19.1	33	11.6	9.7	12.2	8	3.74
New England Tel. & Telegraph [10]	274.6	17	1,037.8	16	29.1	29	101.0	17	10.6	9.6	8.9	14	2.61
New York State Electric & Gas	61.2	14	236.4	7	6.6	21	30.6	17	10.7	10.1	10.7	10	3.03
Northeast Utilities	122.0	14	473.0	16	17.2	4	32.0	33	14.1	15.5	14.2	10	1.57
Northern Illinois Gas	107.8	29	424.9	13	4.8	1	40.8	6	4.4	5.7	16.8	9	2.92
Northern Indiana Public Service	98.4	22	372.6	14	14.8	16	45.4	8	15.1	15.9	15.3	10	2.25
Northern States Power	113.9	15	439.1	14	17.3	3	66.4	14	15.1	16.8	14.2	10	2.75
Ohio Edison	88.4	10	343.2	11	14.2	16	53.9	11	16.1	15.3	13.8	11	1.91
Pacific Gas & Electric	340.1	2	1,350.6	7	52.3	10	215.3	12	15.4	14.4	11.8	9	3.02
Pacific Lighting	236.1	1	819.5	5	15.2	−15	43.5	−10	6.4	7.6	10.5	10	2.23
Pacific Northwest Bell Tel. [10]	137.3	16	524.3	14	15.9	25	58.9	21	11.6	10.7	9.1	11	1.36
Pacific Tel. & Tel. [10]	637.8	16	2,387.6	10	63.9	49	214.2	18	10.0	7.8	7.6	13	1.38
Pennsylvania Power & Light	89.7	17	345.8	15	14.3	23	57.9	19	16.0	15.2	12.7	10	2.48
Peoples Gas [1]	180.7	21	685.5	13	18.8	70	77.7	20	10.4	7.4	15.1	8	4.41
Philadelphia Electric	174.8	12	685.0	13	26.6	10	108.0	15	15.2	15.4	11.6	11	2.08
Potomac Electric Power	70.9	14	272.7	8	11.0	−12	44.9	22	15.6	20.1	11.1	10	1.53
Public Service of Colorado	73.8	17	268.3	13	11.6	24	36.6	16	15.7	14.8	12.5	10	2.01
Public Service of Indiana	58.1	21	221.2	16	10.6	66	36.8	22	18.3	13.4	14.5	14	3.10

Footnotes at end of table.

SURVEY OF CORPORATE PERFORMANCE: 4TH QUARTER 1972—Continued

Company	Sales: 4th quarter 1972 (millions)	Sales: Change from 1971 (percent)	Sales: 12 months 1972 (millions)	Sales: Change from 1971 (percent)	Profits: 4th quarter 1972 (millions)	Profits: Change from 1971 (percent)	Profits: 12 months 1972 (millions)	Profits: Change from 1971 (percent)	Margins: 4th quarter 1972 (percent)	Margins: 4th quarter 1971 (percent)	Return com. eqy. 12 months ending Dec. 31	P–E 2–28	12 months earnings per share
Utilities (telephone, electric, gas)—Continued													
Public Service Electric & Gas	$254.6	15	$970.9	10	$35.5	35	$122.3	−3	13.9	11.9	10.7	10	2.44
Rochester Gas & Electric	50.9	14	191.8	9	5.6	35	20.0	11	11.0	9.3	10.7	10	2.14
San Diego Gas & Electric	54.3	17	197.1	12	5.8	34	24.4	7	10.7	9.2	11.2	10	1.90
Southern California Edison	239.9	9	931.6	16	34.6	4	137.3	8	14.4	15.1	10.0	10	2.55
Southern	249.0	17	983.0	19	35.8	23	144.2	23	14.4	13.6	11.8	10	1.88
Texas Eastern Transmission	204.4	8	785.3	7	19.7	8	77.7	14	9.6	9.6	17.5	17	3.20
Texas Utilities	140.6	22	563.3	17	27.7	20	117.9	16	19.7	20.0	15.1	16	1.93
Union Electric	90.1	13	375.2	10	10.7	−16	53.6	−6	11.9	15.9	9.7	13	1.35
United Telecommunications	170.8	10	634.2	12	17.2	13	62.3	13	10.1	9.8	31.3	13	1.50
Virginia Electric & Power	120.9	15	470.9	14	30.2	33	103.7	26	25.0	21.5	11.7	10	2.08
Western Union	[3] 113.4	0	451.4	11	12.3	84	34.0	147	10.9	5.9	7.6	11	2.63
Wisconsin Electric Power	95.1	23	367.9	18	6.6	15	46.5	36	7.0	7.4	11.5	9	2.64
Industry composite	15,766.6	15	59,952.8	13	1,927.1	19	7,027.5	15	12.2	11.7	10.9	11	2.74

[1] 1st quarter and most recent 12 months ending Dec. 31.
[2] Sales include other income.
[3] Not available.
[4] 3d quarter and most recent 12 months ending Dec. 31.
[5] Not meaningful.
[6] 2d quarter and most recent 12 months ending Dec. 31.
[7] 1st quarter and most recent 12 months ending Nov. 30.
[8] 4th quarter ending Oct. 31.
[9] Sales include excise taxes.
[10] 4th quarter ending Nov. 30.
[11] 1st quarter and most recent 12 months ending Oct. 31.
[12] 2d quarter and most recent 12 months ending Oct. 31.
[13] 3d quarter and most recent 12 months ending Nov. 30.
[14] 2d quarter and most recent 12 months ending Nov. 30.
[15] 3d quarter and most recent 12 months ending Oct. 31.
[16] Sales include excise taxes and other income.

Source: Data—Investors Management Sciences.

GLOSSARY

Sales: Includes all sales and other operating revenues. For banks, includes all operating revenues.
Profits: Net income before extraordinary items. For banks, profits are before security gains or losses.
Margins: Net income before extraordinary items as percent of sales.
Return on common equity: Ratio of net available for common stock holders to average common equity, which includes common stock, capital surplus, retained earnings.
Price-earnings ratio: Based on Feb. 28 stock price and earnings for latest 12 months.
Earnings per share: For latest 12 months, includes all common stock equivalents.

TIGHTEN CAMPAIGN LAW

Mr. SCOTT of Pennsylvania. Mr. President, I recently introduced a number of campaign reform bills, one of which would create a Federal Elections Commission to monitor and enforce the law. Last week, at an executive session of my Senate Rules Committee, I asked the chairman, Mr. CANNON, as to the possibility for prompt action on my bill.

Senator CANNON indicated that the bill currently being considered by Senator PASTORE's Communications Subcommittee would be referred to the Rules Committee before being sent to the Senate floor. At the time the Rules Committee has it, I expect to call up my amendment to create an independent Federal Elections Commission.

Mr. President, I ask unanimous consent to have printed in the RECORD an editorial, which supports my position, from the Philadelphia Bulletin's edition of March 11, 1973.

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

TIGHTEN CAMPAIGN LAW

Like the old Corrupt Practices Act which it replaced, the 1972 Federal Elections Campaign Act, designed to curb election spending and abuses in fund raising, is clearly riddled with loopholes that reduce its effectiveness.

The law did not put any meaningful damper on spending, as evidenced by the fact that last November's election was by far the costliest in history.

For months, instances have been coming to light in which the source of campaign money and its use were obscured. (Watergate is the most publicized example.)

As a result, public confidence in the election system has been anything but restored as proponents hoped. But the experience has not been all bad.

People are at least being made increasingly aware of who pays huge sums into political coffers, and the dangers to representative government this entails. Knowing the problem is step one toward correcting it.

If the new law has one chief shortcoming it is in the machinery set up for enforcement. House and Senate candidates are required to report contributions and expenses to the House clerk and Senate secretary, respectively. Reports on presidential campaigning go to the Comptroller General, head of the General Accounting Office. The Justice Department is to investigate irregularities and bring any appropriate action.

It hasn't worked, and it's no wonder. Those who are to enforce the law are too closely tied to the politicians.

What is needed is an independent federal elections commission with power to subpena records and witnesses, as well as to prosecute infraction.

Such a commission, of six members appointed to six-year terms by the President and confirmed by the Senate, has now been proposed by Senate Minority Leader Hugh Scott (R-Pa) and Sen. Charles Mathias (R-Md).

To Senator Scott's credit, he fought for the same idea last year but his efforts were defeated in the House.

If Congress is at all interested in curbing campaign abuses, it will assign a real watchdog, instead of a toothless one, to the task.

THE IMPOUNDMENT ISSUE AS VIEWED BY ONE OF AMERICA'S GREATEST CONSTITUTIONAL SCHOLARS

Mr. ERVIN. Mr. President, Philip B. Kurland, of the University of Chicago Law School, is one of America's greatest constitutional lawyers and scholars. On February 9, 1973, he set forth his views in respect to the impoundment issue in a letter which he addressed to the Washington Post. This letter makes clear the crucial importance of this issue to the Republic which the Constitution was ordained to establish. I ask unanimous consent that a copy of this letter be printed at this point in the body of the RECORD.

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

CHICAGO, ILL.
February 9, 1973.

SIR: The impoundment issue now stirring the country is, the Wall Street Journal to the contrary notwithstanding, a true constitutional crisis. For upon its resolution depends the future of democratic representative government in the United States. It may prove to be that the members of the Congress do not have integrity or fortitude to protect the power of the purse given to them and to them alone by the Constitution. But the constitutional allocation of the appropriations power to Congress is not really theirs to surrender. And they will breach their oaths to support the Constitution, just as the President will breach his, if this authority is transferred from the legislature to the executive. No democracy has survived the surrender of this legislative power to the executive. Representative democracy in this country becomes a sham when the elected representatives of the people cannot make the laws that the President of the United States is required by Article II of the Constitution "faithfully to execute."

Congress may and has specifically granted a modicum of discretion to the President in the expenditure of funds appropriated by it for the effectuation of the laws that it has enacted. But there is no "inherent authority" in the President to abrogate to himself the authority to impound funds and stop legislative programs without such specific authorization from Congress. As Assistant Attorney General (now Mr. Justice) Rehnquist told both Congress and President Nixon: "With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that the existence of such a broad power is supported by neither reason nor precedent."

When the authors of the Constitution framed Article I, § 7, describing the veto power of the President, they specifically rejected the proposal of those who would give an absolute power to veto to the President, just as they rejected the proposals of those who would have denied the executive any veto. They spelled out in clear and precise terms how and when a veto could be effected and how and when Congress could override that veto. The impoundment process

as described by the President and his aides—a veto that takes place neither in the time nor in the manner specified—is totally inconsistent with the language and purpose of this provision of the Constitution.

It should be noted that at the last session of Congress, the President asked for a ceiling on expenditures. Congress debated giving him that authority and then rejected his request, after considerable debate. The Water Pollution Act, which is one of those at the center of the present controversy, was unanimously enacted by Congress; vetoed by the President; and his veto was overridden. Certainly these events represent an even stronger case than that which resulted in the Supreme Court's decision in the case of President Truman's seizure of the steel mills. In that case, it was pointed out by Mr. Justice Jackson that, whatever implied powers the President may have, they were at their nadir when they conflicted with the expressed will of Congress, even though the President there rested his claim on the war power and the foreign affairs power, for we were immersed in the Korean "police action" at that time.

When an executive branch official also claims that not only may the President impound funds intended to support one legislative program and use them instead for another for which Congress did not make the appropriation, the President is again running afoul the clear language of the Constitution. Article I, § 9 of that document provides: "No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law."

At the recent Senate hearings, one Senator said that the President's claim to disregard the laws of the United States in this manner was reminiscent of President Marcos' suspension of the Philippine Constitution, ending democracy in that country. It is to be hoped that Mr. Justice Cardozo's words in another context will yet prove true in this one: "Historians may find hyperbole in the sanguinary simile." But the analogy will prove true, unless Congress is firm in adhering to its constitutional mandate. Congress will not prove firm unless the people and the press support it in this extraordinarily perilous constitutional crisis.

Sincerely,

PHILIP B. KURLAND.

SANTA CLAUS LIVES ON CAPITOL HILL

Mr. SCOTT of Pennsylvania. Mr. President, as the so-called "battle of the budget" heats up, it might be well for those on both sides of the issue, as well as those who perceive themselves in the middle, to review an editorial published in the March 15 issue of the Wall Street Journal.

I ask unanimous consent that the editorial be printed at this point in the RECORD.

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

SANTA CLAUS LIVES ON CAPITOL HILL

For the moment, President Nixon appears to have the upper hand in his budget battle with Congress. As Norman C. Miller reported from Washington recently: "President Nixon has the congressional Democrats on the run, and a good number admit there isn't much they can do about it except yell."

But the battle is really just beginning, and there are bound to be moments of touch and go for the White House. For one thing, Mr. Nixon cannot be sure that congressional Republicans will stand by him when the heat is on. Will they take political risks knowing the President is on the last lap of his own career? Wavering in the GOP ranks would complicate Mr. Nixon's strategy, if not force him to fold his hand altogether.

The first Democratic assault against Mr. Nixon's strategy will come in a wave of legislation the White House promises to veto. John Ehrlichman, the President's Assistant for Domestic Affairs, calls them "a $9 billion herd of Trojan horses." The vetoes will put the Republicans in the position of having to offend special-interest groups in order to sustain the vetoes, not a happy spot to be in.

The likeliest prospects for the first wave are two bills the President pocket vetoed last fall and one attempting to restore a program the President simply terminated. Each of the bills has political sex appeal and fancy price-tags. And while it's doubtful that very many members of the Senate or House know what's in them, each has already passed one House or the other. The Republican performance so far should give the White House reason to worry about how much support it will get when the chips are down.

The Older Americans Act, pocket vetoed last fall, passed the Senate February 20 by a vote of 82 to 9 and passed the House this week by a vote of 329 to 69. The bill authorizes $1.55 billion over three years to do all kinds of wonderful things for Americans aged 45 and up, almost all of which involve employing social workers and such to provide "social services" and manpower training. A new bureaucratic empire would be spawned along with a host of new boards, commissions and advisory councils. Almost all the measures duplicate programs already being run by HEW, Labor and other agencies.

The Vocational Rehabilitation Act, pocket vetoed last fall, passed the Senate February 28 by a vote of 86 to 2. The bill authorizes $1.1 billion for the 1974 fiscal year, $423 million above the President's budget request and almost four times the amount spent four years ago. The new money will largely go to adding on to the bureaucratic empire and creating a host of new boards, commissions and advisory councils. The program would no longer be employment oriented, but would also provide "social services" and "health services" that duplicate existing programs in HEW.

The Rural Water and Waste Disposal Plant Program, terminated by the President, was revived and passed by the House March 1 by a vote of 297 to 54. The bill requires the spending of $120 million already authorized for the current fiscal year to finance rural water and sewer systems on a 50% matching-fund basis. The program duplicates the $1.6 billion sewer program of the Environmental Protection Agency, which provides 75% matching funds, and loans for water districts available through the Farmers Home Administration.

On this evidence, it's obvious the 93rd Congress doesn't want to shoot Santa Claus any more than the 92nd did. And for all the brave talk about budget restraint, keeping within the President's ceiling of $269 billion, and forestalling tax increases, it's business as usual on Capitol Hill. Republicans no more than Democrats want to vote against "older Americans," disabled Americans, sewerless farmers or left-handed blacksmiths. It's politically deadly.

But is it? In the past two years, Gov. Thomas Meskill of Connecticut vetoed 229 bills sent him by the Democratic legislature containing spending goodies designed by St. Nick himself—including funds for something labeled the House of the Good Shepherd. The voters seemed alert enough to the fact that the governor was fending off a tax increase. Dozens of Democrats were bounced in the November elections and the legislature is now lopsidedly Republican. The governor is talking about a tax cut.

But so far as Washington's politicians are concerned, it's still more politic to spend than to not spend. And it really makes little difference where the money's going, as long as the legislation has a sexy title. Unless Mr. Nixon can soon get the GOP sobered up, it won't be long before the Democrats have him on the run.

LAWYERS FOR THE POOR

Mr. SCOTT of Pennsylvania. Mr. President, I believe an editorial published in the March 8 issue of the Pittsburgh Press deserves the attention of all those concerned about the future of the Office of Economic Opportunity legal service program.

I ask unanimous consent that the editorial be printed in the RECORD.

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

LAWYERS FOR THE POOR

President Nixon's proposal to improve and expand legal services to the poor—under a new name and with independent status—deserves the support of both parties and swift action in Congress this year.

The program is based on the sound principle that every American, rich or poor, should be given reasonable access to legal counsel, even if it requires a tax-financed subsidy in some cases.

In 300 cities around the country, 2,500 young lawyers have been offering advice and services in non-criminal matters to the neighborhood people who simply couldn't afford legal aid if they had to pay for it themselves.

That's why it's important that legal services be maintained during the current dismantling of the Office of Economic Opportunity (OEO).

Under questioning by Congress, the OEO's new acting director, Howard J. Phillips, has promised to extend the old program for as long as a year. This should give Mr. Nixon's new program a chance to take root.

No one denies that some poverty lawyers have been an irritant to public officials.

Vice President Spiro Agnew has called some poverty lawyers "ideological vigilantes" more interested in social change than in the day-to-day needs of their clients.

But for every "vigilante" in the program there must be 50 or 100 lawyers who help poor families get into public-housing projects; or protect them against loan sharks; or make sure they're being treated fairly in city halls and county courthouses.

In his budget for 1974, President Nixon has set aside $72 million for a new Legal Services Corp.—a separate agency with its own board of directors and operating staff.

The new agency, as visualized by the President, would be an independent organization, insulated as much as possible from political agitation and from any partisan point of view.

That sounds like a fine proposal meriting speedy approval and early implementation.

In the meantime, the administration should continue the existing legal-services program until the new corporation can be formed.

J. HAROLD DAOUST, LABOR LEADER, IS DEAD

Mr. McINTYRE. Mr. President, J. Harold Daoust, of Nashue, one of the Nation's great labor leaders, has died.

Harold Daoust, at the time of his death was vice president of the Textile Workers Union of America, AFL–CIO. He served also as New England representative of this leading labor organization. In addition he held many other posts of responsibility in the union movement in this country and in Canada.

Harold Daoust will be missed in our State as I know he will in the labor ranks in this country and Canada. I know that the distinguished president of TWUA, Sol Stetin, will feel the loss of Harold Daoust. During his 62 years, he did much for the working men and women who looked to him for leadership.

I want to express my condolences to his lovely wife, Lee; his daughter, Pauline; and his grandchildren.

Mr. President, I ask unanimous consent to insert in the RECORD at this point an article from the March issue of Textile Labor, the official publication of TWUA detailing many of the milestones in Harold Daoust's life.

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

J. HAROLD DAOUST DEAD; WAS TWUA VICE PRESIDENT

He began his full-time union career as an organizer for the original United Textile Workers and, when the CIO launched the Textile Workers Organizing Committee in 1937, he became TWOC's organizing director for the state of Maine. The following year he was named manager of the Greater Manchester-Suncook Joint Board in New Hampshire.

As a TWUA staffer, Daoust served as New Hampshire-Vermont director from 1944 until 1951 when he was appointed as the union's Canadian director.

During his 13 years in the Canadian post, Daoust served simultaneously as a vice president of the Canadian Congress of Labour, an office he continued to hold in that organization's successor, the Canadian Labour Congress.

Returning to the United States as New England director in 1964, Daoust also became director of TWUA's Rope & Cordage division as well as its Velvet & Pile, Woolen & Worsted and Northern Cotton-Synthetics divisions.

Just last year, Daoust was named to the additional post of National Cotton-Synthetics director by Gen. Pres. Sol Stetin.

Daoust was first elected to TWUA's Executive Council in 1948, but resigned two years later. He returned to the union's top policy-making body in 1952 and had been reelected at every biennial convention of the union since then.

In addition to his TWUA posts, Daoust had also been president of the New Hampshire State CIO Industrial Council prior to the AFL–CIO merger in 1955.

He is survived by his wife, Lee, one daughter, Pauline, and five grandchildren.

Funeral services were held at the Church of the Immaculate Conception here followed by burial in Whitinsville, Mass.

AMERICA IS NOT OVER THE HILL

Mr. SAXBE. Mr. President, I was impressed with an article by Joseph Kraft in the outlook section of the Washington Post on March 18. He recounts the many aspects of the President's foreign policy initiatives over the last 4 years, and concludes that the United States "is more than ever the dominant force in the world." I commend his article to my colleagues and ask unanimous consent that it be printed in the RECORD.

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

AMERICA IS NOT OVER THE HILL

(By Joseph Kraft)

Many thoughtful and friendly American watchers saw in the Vietnam war the beginning of the end of this country's supremacy in international affairs. In that vein, for example, Roy Jenkins, Britain's former Chancellor of the Exchequer, called his graceful set of lectures on America "Afternoon on the Potomac."

But recent events in all corners of the globe show that Americans are far from being the over-the-hill mob. On the contrary, with the Vietnam albatross finally lifted, this country's power is more than ever the dominant force in the world.

The most dramatic sign of American power has come in recent contacts with Communist China. A whole series of events—the release of American prisoners; the agreement to establish high-level liaison offices in Washington and Peking; the reception of Henry Kissinger by Mao Tse-tung—all testify to one point. The Chinese want the whole world to know, in the most striking way, that they have harmonious relations with the United States.

The Russians are hardly less friendly. Big Two negotiations on arms control and trade go on apace. Secretary of the Treasury George Shultz received a very cordial welcome in Moscow last week even though he raised the touchy subject of Russian restrictions on Jews wishing to emigrate to Israel.

A particularly revealing sign is a hopeful article on prospects for American-Soviet cooperation published by George Arbatov, the head of the USA Institute in Moscow. Mr. Arbatov has frequently published material that is conciliatory toward the United States. What is significant about the present article is that it appears in the ideological redoubt of the regime, the theoretical journal, Kommunist.

For once, moreover, this country has improved relations with Russia and China without seriously damaging rapport with western Europe and Japan. No sensible person will bother his head much about the complex details of the international monetary accords recently concluded by Secretary Shultz and his undersecretary, Paul Volcker. But those agreements reflect two political turn-abouts favorable to Washington.

Thus Japan has agreed to revalue the yen in a way favorable to American exports. The Japanese revaluation represents a complete about-face by Prime Minister Kakuei Tanaka.

The West Europeans have also agreed to a revaluation that is also favorable to American exports. The European decision expresses a complete about-face by France which had previously opposed any joint action helpful to the American interest.

A final expression of American preeminence emerges from the two best-known hot spots. In the Mideast, the Egyptians are looking to the United States for a move towards settlement. Provided the Egyptians themselves show a little more flexibility, there may be such a move. In Latin America, it has become old hat merely to blame all troubles on Uncle Sam. A marvelous occasion for such tactics—a special meeting of the United Nations Security Council in Panama—has drawn only a handful of foreign ministers, and no outside heads of state.

The chief lesson of all this is that American power in the world is dependent, not upon staying in Vietnam, but on getting out. No matter what happens in Indochina, Washington has no interest in becoming engaged again.

A second lesson is that the American position in the world is easy enough to permit serious address to serious internal problems. We can easily afford to concentrate more attention and more resources on such domestic problems as inflation, education, transport, crime, race relations and the cities. Indeed, when the right approach to these problems is through international action, the United States need have no compunction about being what it really is—namely the foremost power in the world.

RIGHTS-OF-WAY ON FEDERAL LANDS

Mr. METCALF. Mr. President, at a hearing of the Committee on Interior and Insular Affairs on March 9 a statement was presented by Stewart M. Brandborg, executive director of the Wilderness Society, which puts in very useful perspective several bills now pending before the committee.

These bills would significantly alter present law concerning right-of-way grants across Federal lands. The bills were introduced as an aftermath of the recent ruling of the U.S. Court of Appeals for the District of Columbia Circuit in the Alaska pipeline case.

A lower court 3 years ago enjoined the pipeline project partly because the court found that the needed right-of-way exceeded the width allowed by the 1920 Mineral Leasing Act. Last August the injunction was dissolved, but on February 9 the appellate court unanimously reinstated it on the same right-of-way grounds. Another aspect of the case, alleged noncompliance with the National Environmental Policy Act, has not yet been decided at the appellate level.

Enactment of any of the several bills now pending would, among other things, erase the Mineral Leasing Act obstacle to the proposed pipeline. Some contend Congress should take such action at once. In his testimony last week, however, Mr. Brandborg pointed out that this would mean sudden abandonment of law developed over a period of a century, and that the implications of some of the proposals before the committee are far-reaching and deserve thorough study.

With respect to the Alaska pipeline controversy, he urged that because the Department of the Interior has never given serious consideration to the possible advantages of combining oil and natural gas delivery from northern Alaska in a single overland corridor across Canada, Congress itself now consider this alternative.

It has now become obvious that Congress must seek additional information on the Canadian alternative and other alternatives to the trans-Alaska plan of a Prudhoe Bay-Valdez pipeline route. All economic and environmental factors related to these alternatives must be presented through such a comprehensive analysis in order that Congress may reach a decision based on the merits.

Mr. President, Mr. Brandborg's statement, which presents the views of three of the plaintiffs in the pipeline case, argues very persuasively for a thorough-going inquiry by Congress into the questions raised by the pending bills. I believe my colleagues in the Senate would find the statement instructive, and, therefore, I commend it to their attention. I ask unanimous consent that the statement be printed at this point in the RECORD.

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

STATEMENT OF STEWART M. BRANDBORG

Mr. Chairman and Members of the Committee: I appreciate very much your invitation and the opportunity to testify today. I

am Stewart M. Brandborg, executive director of The Wilderness Society.

The Wilderness Society is a national, nonprofit citizen's organization established in 1935 to obtain protection for the nation's remaining wildlands, to carry on educational programs concerning the values of wilderness, and to join with other organizations in cooperating for the conservation of all natural resources. We have a current membership of approximately 80,000. The Society has long had a special interest in the wilderness, wildlife and native culture of Alaska and has close ties with Alaskan conservation groups.

Our Society is one of the successful plaintiffs in the case of Wilderness Society et al., v. Morton, decided in the United States Court of Appeals for the District of Columbia Circuit on February 9. This is the case singled out as the reason for the right-of-way legislation that is the subject of today's hearing.

I appear today to offer my observations on the four bills—S. 1081, S. 1056, S. 1041, and S. 1040—that you have announced as the subject of today's hearings. I am authorized to state that the views expressed by me are shared by the two other environmental organizations that are our co-plaintiffs in the Alaska Pipeline litigation, Environmental Defense Fund, Inc. and Friends of the Earth, as well as by the Cordova District Fisheries Union, who are plaintiffs in a companion case.

Our position on all the bills can be summarized briefly. We strongly support revision of public land laws dealing with rights-of-way over public lands. But we do not believe that the matter lends itself to a precipitate resolution. Nor are we able to support any of the proposed bills in their present form, although we believe the Jackson bill (S. 1081) contains concepts which, if strengthened, would be valuable contributions to a badly needed overhaul of our public land laws. Our principal objection to all the bills is that they perpetuate the piece-meal taking of public lands at the initiative of private interests—the very reason why, in our view, the existing laws should be completely revised.

In deference to the directive of the Chairman that witnesses not address themselves to "the desirability and routing of the tran-Alaska Pipeline," I will not elaborate on the environmental issues presented by the trans-Alaska Pipeline proposal. But the Chairman has recognized that "it is inevitable that much of the debate on this legislation will be carried on in the context of the proposed Alaska Pipeline."

I believe, therefore, that it is important for me to state at the outset, what our position is on North Slope oil and gas, lest my comments on these various bills be misconstrued. We do not oppose development of North Slope oil and gas. We will support a delivery system that will promptly bring North Slope oil and natural gas to market so long as it rationally serves the public interest and is consistent with environmental protection and sound land planning.

A short response to those who characterize us as poorly informed is that the winter's energy shortages have confirmed our contention that while the proposed Alaska Pipeline would bring profits to the oil companies, it would bring oil to the wrong place (the West Coast, rather than the Midwest and East) at considerable overall cost to consumers. North Slope oil and natural gas are only one part of a long-term solution to our country's energy needs, and the proposal to bring the oil to the West Coast reduces even that contribution.

We disagree, moreover, with the position that Congress should not itself decide the means by which the oil and natural gas resources of Alaska's North Slope will be brought to market in the United States. There is no doubt that Congress has authority to make the choice among a trans-Alaska Pipeline-tanker system, an all-land trans-Alaska-Canada pipeline system, a combination of the two, or some other method of delivery. Congress should exercise that authority rather than passing the decision off to the Executive and the Courts and should make the decision after appropriate hearings and the development of necessary supplemental data (relating particularly to the alternative of an all-land trans-Alaska-Canada delivery system that would bring North Slope oil and natural gas to the Midwest and East). These decisions will have enormous and long-lasting impact on the public lands and on profound issues of energy supply and environmental protection. Their consequences will be of obvious national and international importance.

In the remainder of my testimony I will refer to the Alaska Pipeline dispute only insofar as it illustrates our basic objections to the approach taken in all four of the bills.

Mr. Chairman, we are concerned that some interests seem to be pressing for very rapid, even hasty action on this general right-of-way legislation, suggesting that there is an emergency. We hope that Congress will be more deliberate, allowing sufficient time for the need for such legislation to be clarified and its many implications traced and evaluated. Ample time should be allowed to assure that the public can consider this matter and communicate its views to Congress.

We find it especially ironic that blame has been placed on the Court of Appeals for such hasty action rather than where it properly belongs with the Interior Department and the oil industry. Both were given clear warning three years ago, when a preliminary injunction was issued in our case, on the basis of the unambiguous language of the Mineral Leasing Act. For three years they did nothing to bring the matter to the attention of Congress and to seek a calm and dispassionate resolution.

For the Interior Department and the oil industry now to ask the Congress to abolish in a matter of days, without careful deliberation, laws that have been passed over a period of 100 years, is the height of arrogance. We trust that the Congress, mindful of its constitutional power over the public lands, will refuse to become a party to any such ill-conceived plan.

The current public land laws, passed largely in the late 19th and early 20th centuries, developed in an essentially haphazard manner, without a systematic approach as to how the lands might best serve the widest possible combination of uses. For example, insofar as rights-of-way are concerned, some laws provide explicit width limitations, others do not; some confer broad discretion upon the Executive, others provide no discretion; and some make direct grants to specified or unspecified recipients, while others require action by the Executive. The only thing these laws appear to have in common is that they encourage private interests to appropriate the public lands in the manner that best suits their individual needs.

These laws reflect the values of the frontier era. When they were enacted it seemed to make little difference whether one strip was cut out one year for an oil pipeline, another strip the next year for a gas pipeline, still another for an irrigation ditch, and yet another for telegraph transmission lines—all crisscrossing the land rather than being planned so as to minimize the commitment of public lands to private uses that foreclose uses of greater potential benefit to the public at large.

Now we know that our wilderness areas and the remaining unscarred public lands are among our most precious remaining natural resources. The public lands of Alaska, our last frontier, are a case in point. They provide our last chance to accommodate in a rational manner the needs of the environment with the necessary development of resources through sound planning.

Spokesmen for the administration, together with many members of Congress and leaders of environmental organizations, share the view that the public land laws need not merely to be revised but to be redirected. There is a profound irony in the administration's approach (as well as in the approach taken in S. 1056) to resolving the right-of-way problem. These bills would perpetuate piecemeal development at the very time this Committee is developing national land use policies.

The administration's proposal is especially distressing. The administration has interjected a purple patch, designated as Title IV, into its "Bill to Provide for the Management, Protection, Development and Sale of the Natural Resource Lands and for other purposes" (S. 1041). In the covering letter accompanying this measure, Acting Secretary of the Interior Whitaker stated:

"The Natural Resource Lands are a priceless and irreplaceable national asset. It is time to provide the Department of the Interior with the tools to manage and preserve them in accordance with their value to the American people."

Accordingly, Title I of the administration's bill provides guidelines for assuring the widest enjoyment of the public lands. Of special importance is the definition section which defines the term "multiple use" as follows:

"The management of the natural resource lands and their various surface and subsurface resources so that they are utilized in the combination that will best meet the present and future needs of the American people; the most judicious use of the land for some or all of these resources or related services over areas large enough to provide sufficient latitude for periodic adjustments in use to conform to changing needs and conditions; the use of some land for less than all of the resources; a combination of resource uses that takes into account the long term needs of the future generations for nonrenewable resources and the achievement of diversity and balance for renewable resources; and harmonious and coordinated management of the various resources, each with the other, without permanent impairment of the productivity of the land or undue damage to irreplacable values, with consideration being given to the relative values of the resources, and not necessarily the combination of uses that will give the greatest economic return or the greatest unit output."

But, at the same time, the administration has, with inappropriate haste, tacked on the provisions of Title IV, which are totally inconsistent with the expressed philosophy of maximum feasible multiple use of the public lands. The effect of passage of Title IV would be to accede to the initiative of a handful of oil companies and other private interests to carve up the public lands of Alaska and elsewhere in the manner best suited to meet their own individual convenience. And, it is difficult to conclude other than that the intent of the proposal is to continue the philosophy of passive deference to industry initiatives which has characterized the government's approach to the proposed Alaska Pipeline.

In short, the administration bill, as well as S. 1056, fails to alter the philosophy prevailing in the existing public land laws of focusing upon private industry's immediate proposals for use of the public lands without considering possible future development and use of those same lands. They place no obligation on the Secretary of the Interior affirmatively to develop and to take into account plans for future developments related to the same public lands before approving any right-of-way.

They perpetuate the basic defect of the

current permit process which focuses the attention of the administrator on a single and specific project, considered in isolation.

In addition, all of the bills—including S. 1081—suffer from a common fault in that they fail explicitly to recognize environmentally significant distinctions among rights-of-way for different puropses. A right-of-way for an oil pipeline, for example, presents different problems than rights-of-way for such uses as transmission lines, ditches and tunnels. Referring to the Alaska Pipeline as an illustrative example, according to the Interior Department's own evaluation, even with the best detection capability now developed, as much as 750 barrels of oil could be lost every day without being detected. If the pipe were actually to rupture, more than 60,000 barrels could escape from each rupture. Clearly the Committee should be aware of the unique problems presented by different categories of rights-of-way before it takes any action lumping them all together in one omnibus bill.

Because of the short time available for preparation of testimony, we are unable to provide detailed comments on all sections of the Jackson bill. However, we do state that the approach taken in that bill appears to be clearly preferable to the other bills, particularly in its recognition of the need for a common corridor approach to the granting of rights-of-way over the public lands.

There are three basic problems with the common corridor provision of the Jackson bill. First, it would be applied so as to leave the right-of-way process to the initiative of industry, rather than to require affirmative government action to develop information to ensure that each right-of-way application is considered in a suitably broad context. Second, it does not explicitly place responsibility on government officials, who hold the public lands in trust for all Americans, to explore alternatives that would minimize the appropriation of the public lands for private purposes. Third, it contains no "action forcing" procedures so that Congress will be certain that its policy regarding the common corridor approach to rights-of-way will be fully implemented. In short, the vague exortations in Section 4 of "whenever practical" and "where appropriate" are an open invitation to the Executive to carry on its right-of-way business as usual.

The defects in existing legislation—which are not cured by the Jackson bill in its present form, much less by the other bills under discussion today—are vividly illustrated by what occurred with respect to the proposed trans-Alaska Pipeline.

It was obvious from the time of discovery of oil on the North Slope that the associated natural gas would also have to be delivered to market, presumably by an overland route through Canada. Indeed, in his testimony in our case Assistant Secretary Jack O. Horton stated that "oil cannot be developed without the consideration of gas."

The Department of the Interior did not approach the problem—as we submit Congress should require it to do in tough legislation regarding common transportation corridors—as a total resource delivery problem. Because the oil companies had focused on oil only, the Interior Department focused on oil only. Secretary Morton himself has repeatedly expressed his Department's approach, "the scope of our work here is to deal with applications on our desk."

From the earliest days of its consideration of the oil companies' proposal for a trans-Alaska pipeline, the Department was criticized for this myopic, 19th century approach to its responsibilities. For example, Lieutenant General William F. Cassidy, then Chief of the Corps of Engineers and Executive Secretary of the Corps' Environmental Quality Council, wrote, as early as July 7, 1969:

"The development of Alaska is proceeding on a resource by resource, an agency by agency or an industry by industry basis with an apparent lack of regard for the total Alaskan development or possible large-scale environmental consequences of such development. The burden of providing total planning and concern for the total environment must rest on the state and federal agencies responsible for such development. . . . As development activities grow with an amazingly rapid and increasing pace, the government is in imminent danger of losing its opportunity to step in and provide the total planning required. There is a real danger that actual private development will preempt government efforts."

Dr. David Brew (the Interior Department geologist responsible for drafting the Final Impact Statement on the Alaska Pipeline proposal) has testified in our court proceedings that throughout almost the entire period of the Department's review of the oil companies' proposal, the Department worked on the assumption that there would be a "necessity of producing and transporting the gas from the north slope oil fields" and on the assumption of "the probable utilization of the trans-Canada route by a gas pipeline." But no attempt was ever made to, in Dr. Brew's words, "look at in a systematic way, the alternative possibilities for transporting North Slope gas to market, and attempt to evaluate the environmental impact . . . of gas transportation." The interested oil companies were not even asked to disclose their plans for North Slope natural gas. Nor were such questions as the likelihood of a second oil pipeline from the North Slope and the likely future development of oil and gas reserves in the Canadian Arctic and Gulf of Alaska considered germane. No discussions were initiated by our Government with the Canadian Government either to ascertain its interest in an all-land common corridor for oil and gas or to collaborate with it in the development of data necessary for the selection of the best all-land route. No study was ever undertaken on the specific question of how much of the public lands might be saved or what the potential environmental savings would be of an all-land common corridor that could accommodate both oil and gas pipelines.

The unfortunate result of this approach is that there has never been an adequate assessment of the possibility of having oil and natural gas pipelines, together with other transportation facilities, in a single common corridor. We submit that, under appropriately strong legislative directive, such an assessment would have been required from the very beginning, when the oil resources were first discovered.

The hurried nature of this hearing precludes us from submitting a comprehensive set of conclusions. There is critical need for extension of these hearings to explore all of the technical questions raised here, with the benefit of full and comprehensive testimony from expert and citizen witnesses. What follows, however, is a generalized summary of the conclusions we have reached to date.

1. Obviously, no action should be taken on any general revision of the right-of-way laws until such time as the Interior Department has presented to the Committee a catalogue of existing right-of-way laws; an explanation of their current provisions; a description of the rights-of-way now in existence under the various laws; and an evaluation of the shortcomings that are alleged to exist in each of the now-existing laws.

2. No action should be taken on any general revision of the right-of-way laws until such time as the Interior Department has provided this Committee with a comprehensive description of the extent to which the public lands are now dedicated to private rights-of-way. Without such information this Committee has no basis for determining what action, if any, should be taken to change the existing structure of rights-of-way. Little good will result from any revision of the public land laws if it is merely superimposed upon an archaic structure that is permitted to continue substantially unabated.

3. No final action by Congress on any right of way legislation should be taken until complete and comprehensive environmental impact statements have been prepared by the Department of the Interior and all affected agencies. These, of course, must be made available to the public under standard NEPA procedures. No action should be taken on any general revision of the right-of-way laws until the Interior Department has presented testimony (including testimony by representative members of its field offices where the overwhelming majority of right-of-way applications are processed) on the manner in which right-of-way applications are now processed. Inquiries should be made especially as to the extent, if any, to which current procedures require the collection of information to permit an informed evaluation of future developments that might affect the optimum location of the specific right of way requested or even make the right-of-way unnecessary. Without such information, this Committee is not in a position to determine what, if any, procedures should be specifically incorporated into any omnibus statute to ensure that agencies such as the Interior Department are not blinding themselves to future developments in their piecemeal review of permit applications.

4. Any legislation which updates the existing right-of-way provisions must provide action-forcing mechanisms and standards to ensure that the needless duplication of rights-of-way is avoided:

(a) We suggest that it may be appropriate, following the collection of the information described above, to insert a general provision analogous to Section 4(f) of the Department of Transportation Act in any legislation that may ultimately be reported out of this Committee. Such a provision might prohibit the Secretary from approving an application for a private right-of-way across the public land unless the right-of-way is within an existing common corridor or there is no "feasible and prudent alternative" except to grant a right-of-way outside such existing corridors. The same general provision should also contain language that would ensure that necessary planning has occurred prior to the approval of the right-of-way to minimize potential harm to the public lands. At the least, this would require the administrator to take all appropriate steps to collect data from the applicants (and within the term applicant I include parent and associated companies) on possible future developments in the area as well as other relevant information that will permit the administrator to be cognizant of the short and long term developments that are likely to occur.

(b) Additional language is necessary, in our view, to provide explicit recognition that the characteristics and potential impacts of rights-of-way vary greatly. This is especially important in the case of oil and natural gas pipelines which may entail greater risks to public lands than do rights-of-way for other purposes. (There may, of course, be rights-of-way in addition to oil and gas pipelines which also require special attention and the Committee should endeavor to identify them if they exist.) We submit that it would be appropriate to require (1) that to the maximum extent feasible oil and natural gas pipelines must be placed along the route of already-existing pipelines; (2) that unless the Secretary affirmatively establishes that it is not feasible and prudent to do so, pipelines carrying oil and gas from the same fields and areas adjacent thereto must be placed within the same common corridor.

5. To permit Congress to play its proper role in the formulation of policies relating to the use of public lands and the overall energy needs of the country, the Congress should reserve for itself the final decision on the vital national question of how the oil and natural gas resources of the North Slope can best serve the needs of the nation.

Mr. Chairman, these preliminary comments are offered in response to the Committee's invitation. We would urge that full and exhaustive hearings be continued with sufficient advance notice to permit complete exposition of all of the technical background and public interest concerns that should be made available to this committee and Congress. The Wilderness Society would wish to provide supplemental information and testimony on the occasion of those future hearings.

I thank you for the privilege of appearing here today.

JOURNALISM SCHOOL MARKS 50TH YEAR

Mr. THURMOND. Mr. President, the journalism school of the University of South Carolina is celebrating its golden anniversary this year. This celebration comes at a time when it is making great strides in academic excellence.

In fact, it is ranked among the top 15 journalism schools in the United States. Mr. President, on behalf of the people of South Carolina I would like to take this opportunity to commend President Thomas F. Jones, Dean Albert Scroggins, and his outstanding staff for the fine work they are doing in educating and training future journalists.

The University of South Carolina School of Journalism offers courses in all aspects in journalism: news/editorial, advertising/public relations, and broadcasting. The modern facilities located in the Carolina Coliseum equal, if not surpass, those of any school in the Nation. Thus, emphasis is placed on both academic training and experience.

As we all know, qualified journalists are an integral and necessary part of our democratic way of life. The dissemination of news and factual explanation of our complex issues are a must if the people of this country are to make the right decisions. I can think of no more important work than to train tomorrow's journalists.

Mr. President, I ask unanimous consent that an article entitled "Journalism School Marks 50th Year," which appeared March 11, 1973, in the State Newspaper, of Columbia, S.C., be printed in the RECORD.

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

JOURNALISM SCHOOL MARKS 50TH YEAR

In 1923, only eight students enrolled in the new journalism department at the University of South Carolina.

This year in contrast, more than 650 journalism students will help celebrate the 50th anniversary of the College of Journalism.

President William Davis Melton in 1922 first proposed a School of Journalism. The USC trustees accepted Melton's plan and included $3,000 in their annual budget to hire the first instructor of journalism. William Watts Ball resigned as editor of The State to accept this professorship. The school offered 13 courses. Ball taught all but one. Today, more than 60 different courses are being offered to students.

The school was initially housed in an old campus building, once the residence of university presidents. In the years before the move to Carolina Coliseum in 1969, classes were held in several other locations on campus—often in rather cramped quarters with limited facilities. Today the students and faculty work in an ultramodern complex of classrooms, offices and studios designed especially for the College of Journalism.

Only seven deans have served in the past half-century, one of whom held a temporary post for one year. Succeeding William Ball were James Rion McKissick (later an esteemed USC president), Samual DePass, Robert Joshua Cranford, Ross P. Schlabach and George A. Buchanan.

The present dean, Dr. Albert T. Scroggins Jr. said that the small turnover in leadership has "led to continuity and stability." Inasmuch as it is felt that the college now ranks among the top 15 schools in the nation, he said, this status is a "tribute to all former deans." Their leadership contributed to the American Council on Education for Journalism accrediting the school in 1954. It is one of the 60 journalism programs in the country so approved.

To meet the changing needs of the state and as funds have been allotted, there has been a gradual increase in emphasis on education for mass communication. For example, the newest addition is the color TV production lab and equipment added to the college this summer. It joins other facilities such as the photographic lab, two radio control rooms, and the practicum lab where students actually produce newspapers.

Courses leading to the degree of Bachelor of Arts are now offered in three major divisions: news-editorial, advertising-public relations, and broadcasting. All stress practical experience. The excellent labs offer students a chance to practice skills they've learned in classes. Internships afford students an opportunity to perform in real job situations. The newest educational experience will be initiated in the summer of 1973 with the planned Study Journalism Abroad Program.

The graduate program, begun in 1959, now has 49 master degree certificates in its expanded curriculum.

The 15 fulltime faculty members, eight of whom held doctorate degrees, are all professionals with extensive experience. Many hold offices in journalistic organizations at the state, regional and national levels. They are involved in community and professional services and research activities. These include such diverse services as workshops, conventions and seminars for the public critiquing services for daily, weekly and high school newspapers and evaluation and attitude studies conducted for the mass media.

Many of these activities are carried through the five major associations housed in the college. George A. Buchanan, dean from 1955–1965, was instrumental in closely binding professional endeavors to academic journalism. He succeeded in cementing relations between the college and the working press so that the South Carolina Press Association moved to the School of Journalism in 1959 with Buchanan as secretary. The South Carolina Scholastic Press Association followed in 1961.

When the broadcasters sequence was added in 1966, the South Carolina Scholastic Press Association followed in 1961.

When the broadcasters sequence was added in 1966, the South Carolina Broadcasters Association and Scholastic Broadcasters Association moved their headquarters to the college. This year the Southern Interscholastic Press Association has been added with Dean Scroggins as director. Faculty members serve as executive directors for all of these organizations.

National journalistic societies having local chapters at USC are Sigma Delta Chi, Kappa Tau Alpha, Alpha Epsilon Rho and Alpha Delta Sigma, and Women in Communications (formerly Theta Sigma Phi).

Despite the tremendous growth in student enrollment, Dean Scroggins has successfully continued his philosophy for upholding the traditional "close relationship of faculty and students." His general approach to the future will be "to become better and bigger in that order." As this growth progresses, students will continue to play influential roles in determining the procedures.

As an example of student involvement, a contest last October established a slogan and symbol to be used during the Golden Anniversary year. The winners, both students, received $100 each. Mike Hembree, a senior journalism major from Columbia, submitted the slogan "Growing to Serve, Serving to Grow." A journalism sophomore, Bob Gerwig, also from Columbia, entered the symbol which was selected by a panel of judges made up by students, faculty and members of a local advertising agency.

A banquet in honor of the 50th Anniversary of the College of Journalism was the kickoff event for the Winter meeting of the South Carolina Press Association on February 22. Bob Talbert, former columnist for The State and USC aluminus (Journalism, 1968), was the speaker. Special guests were past SCPA presidents who were honored with plaques.

A JOINT RESOLUTION ADOPTED BY NORTH CAROLINA GENERAL ASSEMBLY HONORING THE MEN AND WOMEN WHO SERVED OUR COUNTRY IN THE CONFLICT IN SOUTHEAST ASIA

Mr. ERVIN. Mr. President, I ask unanimous consent that a joint resolution adopted by the North Carolina General Assembly honoring the men and women who served our country in the conflict in Southeast Asia be printed at this point in the body of the RECORD.

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

HOUSE JOINT RESOLUTION 403

A joint resolution honoring the men and women who served our country in the conflict in Southeast Asia

Whereas, we recognize that Freedom is not solely a gift or blessing from God. That while God does bless Freedom-loving people everywhere, Freedom is a stewardship and must be preserved by those who would choose to remain free; and

Whereas, America, one of the great free nations of all times, has been richly blessed by God; and

Whereas, America has always had an abundance of men and women who would live up to their stewardship and come to their country's aid whenever its safety was in danger and the Freedom of its people at stake; and

Whereas, America has had to assume much of the difficult role of preserving the Freedom for the free world; and

Whereas, our recent involvement in Southeast Asia was an effort to assist the people of that portion of the world to remain free; and

Whereas, three of our Presidents have committed our armed forces to aid these people; and

Whereas, many thousands of young men and women have answered the call to leave their families, their jobs, and have put their futures and even their lives on the line in an effort to assist Freedom-loving peoples; and

Whereas, this involvement in Southeast Asia was not always popular with elements of our society but, notwithstanding, these young men and women continued to serve while others chose not to do so; and

Whereas, the vast majority of these young men and women have served honorably in the Armed Services during this long period of involvement; and

Whereas, our involvement is fast coming to an end; and

Whereas, the members of the General Assembly wish to offer their sincere and grateful appreciation to these young men and women for their answer to the call to assist in preservation of Freedom;

Now, therefore, be it resolved by the House of Representatives, the Senate concurring:

Section 1. The General Assembly of the great State of North Carolina goes on record honoring these young men and women for their dedicated service during the trying times of our Southeast Asian involvement.

Sec. 2. A copy of this resolution shall be sent to the President of the United States, Richard Nixon; the Governor of the State of North Carolina, James Holshouser; all members of the North Carolina Congressional Delegation in Washington, D.C.; the State Headquarters of all Veterans' Organizations in the State of North Carolina; and the National Commanders of each North Carolina Veterans' Organization.

Sec. 3. This resolution shall become effective upon ratification.

In the General Assembly read three times and ratified, this 5th day of March, 1973.

THE PROBLEM OF UNRESTRICTED EXPORT OF IRON AND STEEL SCRAP FROM THE UNITED STATES

Mr. SAXBE. Mr. President, a situation of grave proportions has recently been brought to my attention by the very able Willis B. Boyer, president of the Republic Steel Corp., whose home offices are in Ohio.

The problem revolves around the unrestricted export of iron and steel scrap from the United States to other steel producing countries of the world.

Rising world steel production has escalated foreign demand for iron and steel scrap. American scrap exports are thus running about 65 percent higher than normally experienced over the past 10 years. Since the United Kingdom placed an embargo on the export of ferrous scrap last fall the United States has been the only industrial country to permit unlimited exports on this strategic steelmaking material. Countries which formerly purchased their scrap in the United Kingdom have been purchasing their scrap here in the United States, thus, further aggravating an already difficult raw materials situation.

As a result of this high demand, a sharp increase in scrap prices has resulted. Based on more than 1,350,000 tons of scrap which Republic Steel is expected to purchase this year it will have to pay at least $18 million more than it would have paid at last year's prices for this scrap. Coming at a time when other steelmaking costs are also moving upward, the sharp increase in the price of steel scrap certainly is creating serious inflationary pressures for Republic Steel and other domestic steel producers.

The net effect of this situation is to seriously increase the costs of domestic steel production. Increased costs threaten the job security of our domestic steel industry labor force. Also placed in jeopardy is the industry's continued efforts to maintain reasonable price stability, and their efforts to compete with foreign steel producers.

I would hope that Secretary Dent of the Department of Commerce would take effective steps to utilize the authority granted to him by legislation to restrict exportation of one of this Nation's most important raw materials. Unless steps are taken, the steel industry which is at the base of our domestic economy will suffer irreparable damages.

LUMBER AND PLYWOOD SHORTAGES

Mr. SPARKMAN. Mr. President, every Member of this body knows that softwood lumber and softwood plywood are as basic to homebuilding and to every type of nonresidential construction as tacks are to shoemaking.

We know, too, that unless these softwood building and structural materials are available with reasonable certainty as to delivery and fairness of price, this Nation is simply not going to meet its residential expansion objectives or business and industrial expansion objectives commensurate with our national requirements. Lumber prices have gone through the ceiling and yet, even with such prices, quotations usually will not hold long enough to support a bid. Many items and quantities are unobtainable at any price. The U.S. Forest Service reported that in mid-February 1973 prices of softwood lumber and softwood plywood were some 70 percent higher than in 1970; and between mid-January 1973, when phase II price controls were terminated, and February 9, 1973, prices of Douglas-fir studs increased by 10 percent, while prices of western softwood sheathing plywood jumped 22 percent. The homebuilders report that higher lumber prices have boosted the price of an average house by $1,200 to $1,500 in the last 6 months.

The production and marketing of lumber and lumber products is a complex subject, and the causes of the present crisis are varied but not without remedy.

Congress has provided the administration all the legislative authority and funds needed to deal with each of these causes and to have forestalled the lumber and plywood shortage and price crisis. But having failed to prevent the crisis, the administration is now compounding the problem by failing to make use of the same available authority and funds to bring the crisis to an expeditious end as was done in a similar lumber-plywood crisis in 1969.

The President's 1969 Task Force on Softwood Lumber and Plywood made a number of recommendations in 1970 to solve both the short-range and long-range softwood timber needs of the Nation. These included improved management of U.S. forest lands to expand timber availability and increased appropriations to plow back into the forests part of the income derived from the sale of timber necessary to finance more intensive managements. Increased incentives for higher outputs from non-Federal land was also to play a part. More flexibility in the adjustment of timber sales to meet fluctuations in demand was also to be implemented. Exports and imports were to be monitored in recognition of our changing domestic needs. Substitute building materials were also to be researched and encouraged, as feasible, to take up part of the expected increase in building materials demand.

Several factors, all of which are Government controlled, seem to carry the burden of criticism for our present crisis. The rising log exports to Japan, accompanied by extremely aggressive bidding by Japanese agents, is one. U.S. Forest Service budget cuts have contributed to the reduced harvest from the Federal lands. The failure of administration controls on prices, shortages of freight cars for shipping from the west coast, and a lack of coordination among administration officials to remedy the shortages are being pointed to as controllable factors which have contributed to the present crisis.

Although 50 percent of the saw timber softwood stock inventory is in the national forests, only one-fourth of the 1972 domestic supply came from the national forests. The higher prices attracted a larger cut from the private forests, but harvesting from Federal land was substantially below the allowable cut for the third straight year. One report I received stated that in the Pacific Northwest region Federal timber sold, but uncut, is at an all-time high—a 2.8 year rate of uncut timber in comparison with the allowable annual harvest under sustained yield restrictions.

The obvious cause of high prices is the tremendous increase in demand which has not been matched by corresponding increase in supply. Housing construction is the biggest consumer of softwood lumber and softwood plywood. Housing starts reached 2,378,000 in 1972 compared with an average level of less than 1,500,000 during the decade of the sixties. Consumption of softwood lumber reached 41.1 billion board feet in 1972. About 33 billion board feet were produced by domestic mills, about 9 million board feet were imported from Canada, and 1 billion exported.

Softwood plywood, which is reported separately from softwood lumber, also had a remarkable increase in demand in the past year. Production and shipments reached 18 billion square feet, up nearly 13 percent from the 1971 level.

The most common complaint on lumber shortages is that large volumes of softwood logs are exported, principally to Japan. The exports reached 2.8 billion board feet log scale, of which 2.5 billion board feet went to Japan. When converted to the lumber scale, the export equivalent would be 3.5 billion board feet of lumber. In addition to logs, softwood lumber exports were up 30 percent to a volume of 1.2 billion board feet. Plywood exports were negligible. When compared with the 9 billion board feet imported from Canada, the equivalent volume of softwood exports would be about one-half.

Japanese log buyers have exercised extremely aggressive practices in bidding for softwood logs, and strong allegations have been made that they have contributed substantially to the rising log prices.

It should be noted that most of the log exports to Japan come from private and commercial forests. The law limits the volume of log exports from western Federal lands to 350 million board feet per year. Aliegations have been made that this limitation is not very effective in view of the substitution that can take place with no corresponding limitation on exports from commercial or private forests.

Mr. President, it is amazing how today's problem was so accurately predicted in 1969 when our Subcommittee on Housing and Urban Affairs studied the lumber problem and made recommendations on the necessary action that needed to be taken to avoid future shortages and exorbitant prices. It is indeed unfortunate that these recommendations, most of which could have been implemented by the administration, were not put into effect.

Mr. President, I ask unanimous consent to have printed in the RECORD at this point the conclusions and recommendations of that 1969 report.

There being no objection, the material was ordered printed as follows:

SUMMARY OF CONCLUSIONS AND RECOMMENDATIONS

CONCLUSIONS

A combination of events—increased exports to Japan, shortages of water and freight car transportation facilities, a waterfront strike, bad weather, and a sharp rise in consumer needs aggravated by overestimating and some questionable pricing practices—were the visible causes of the recent crisis in the price of lumber and plywood. However, the underlying cause, which has both temporary and long-term significance, is an artificial shortage of available timber from our Nation's forests. The early-year crisis appears to be a temporary one and, in fact, seems already to be partially solved largely as a result of a number of Government emergency measures and partially by a reduction in demand because of mortgage credit shortages.

The long-range problem is by far the most serious one because, unless softwood timber production is sharply increased, our Nation will find itself critically short of lumber and plywood in the years ahead.

To reach the Nation's housing goal of 26 million units in the next 10 years, lumber availability would have to be increased by 60 percent. The subcommittee was convinced that this increase is well within our resources provided the necessary investment is made in intensive forest management on a continuing basis. About one-half of the Nation's inventory of mature softwood timber, estimated at 2 trillion board feet, is under Government ownership in the National Forests, administered by the Department of Agriculture.

Considering that the National Forests are contributing only 11 billion board feet annually out of this huge inventory, the problem can be seen to be one of management and adequate funding to build roads, to plant trees, to thin, to prune, to fertilize, and to apply the latest technological development to the forests. Obviously, this can be done, but whether or not it will be done, depends upon the approval by the Congress of a dependable continuous adequate financing device. The subcommittee concluded that the best sources of such funds are the forests themselves and the receipts from the sale of timber produced by these forests.

The subcommittee was convinced that, with the necessary financial input, the solution to our long-range problem could be resolved without impairing the use of the forest to meet the conservation and recreation needs of the American people.

The subcommittee also concluded that the export and import factors involved in the current crisis would be resolved on a supply and demand basis once the Nation's forests were operating more productively. However, the subcommittee saw a continuing difficulty with freight car and water transportation problems under existing conditions. The subcommittee also recognized serious dilemmas in pricing and distribution of lumber, starting at the auction process conducted by the Forest Service. Finally, the subcommittee concluded that lumber would continue to be the single most important material in homebuilding but saw increasing opportunities for use of other materials as we move into the mass-production stage of homebuilding in the years ahead.

RECOMMENDATIONS

The subcommittee's recommendations are directed both at the temporary problem and the long-range problem. We are calling the current situation temporary because, for the most part, as a result of congressional hearings and action already taken by the administration, the crisis which threatened to bring homebuilding to a halt early this year has been resolved.

THE TEMPORARY PROBLEM

The President and the Federal agencies are urged to:

(1) Offer for sale the full allowable timber cut on Federal lands.

(2) Loosen the personnel restriction on timber-management agencies.

(3) Negotiate with Japan to release part of its unshipped timber for domestic purposes and postpone its purchases for the first half of 1969.

(4) Hold back Federal purchase of lumber.

(5) Issue the appropriate regulations to free boxcars for lumber shipments.

THE LONG-RANGE PROBLEM

The President and the Federal agencies are urged to:

(1) Develop closer regulations of boxcars to meet the shipment needs for lumber.

(2) Arrange with Japan an automatic reduction in number shipments when domestic shortages reach an intolerable level.

(3) Free lumber and plywood shipments from "Jones Act" limitations.

(4) Speed up processing of revisions in U.S. lumber standards.

(5) Cooperate with the Forest Service on the following:

(a) Offer for sale all accessible salvageable dead and damaged timber.

(b) Concentrate road building where it will generate the maximum timber.

(c) Offer for sale the full allowable cut on national forests.

(d) Implement the Morse amendment to prevent substitution of public timber for exported non-Federal timber.

(e) Aggressively pursue intensive forest management practices to increase timber and decaying timber.

(f) Reexamine present methods of selling and pricing Federal timber to present instability and upward pressure on lumber prices resulting from Federal dominance of market.

The Congress is urged to:

(a) Approve legislation providing for the application of high-yield forestry techniques to Federal commercial timberlands similar to the bill now before the Committee on Agriculture and Forestry.

(b) Approve legislation now pending before the Agriculture Committee to fund such a program with income from the sale of timber it produces.

(c) Review the timber-selling practices of Federal agencies.

(d) Approve emergency funds and personnel, for National Forest management—legislation is now pending before the Committee on Appropriations.

(e) Consider amending the Jones Act to exempt lumber and plywood from its coverage under certain circumstances.

Mr. SPARKMAN. Mr. President, the housing programs are being hit on several sides at the same time; and unless relief is provided, I can see a definite downturn occurring in housing production for 1973. The administration has cut off new commitments for housing subsidy programs mortgages; mortgage money costs are threatening to increase; and now we hear that lumber prices are causing an increase in house prices of as much as $1,200 to $1,500 a unit.

All of these factors, plus other inflationary costs, are driving up prices of new and existing homes to the point that a middle-income family, let alone a lower-income family, cannot afford a decent home. Rents are rising to exorbitant levels, and we are being besieged for a Federal rent control law. Some action needs to be taken to bring all of these forces into line. Some action is required at the congressional level, but for the most part the administration already has the authority and the leverage to resolve these issues through regulations.

Because of the urgency of the present crisis on lumber prices, the Subcommittee on Housing and Urban Affairs of the Committee on Banking, Housing and Urban Affairs will conduct hearings on March 26 and March 27 on the subject of lumber shortages and prices.

In addition, I have required the staff of the Joint Committee on Defense Production, of which I am chairman, to continue to make a thorough investigation and to work with the housing subcommittee on the whole question of the Nation's shortage of softwood lumber and the exorbitant prices now being charged.

NATIONAL HEALTH INSURANCE AND SOCIALIZED MEDICINE

Mr. ERVIN. Mr. President, the Journal of the South Carolina Medical Association for November 1972 carried an article by Dr. Edward F. Parker, president of the South Carolina Medical Association, commenting upon national health insurance and socialized medicine. In this article, Dr. Parker made some comments which merit consideration by the Congress when it undertakes to legislate in respect to health. I ask unanimous consent that a copy of this article be printed at this point in the body of the RECORD.

There being no objection, the article was ordered printed as follows:

PRESIDENT'S PAGES

(By Edward F. Parker, M.D.)

Health care delivery is still the current catch phrase used in countless publications and discussions, to characterize the system of medical practice currently in use in our great United States of America. The phrase is also used as a spring board for its foes to attack it, and simultaneously claim that it has to be changed radically in order that

everyone shall have an equal right to a blissful state of mental, physical, and social well being. It is claimed, under our pluralistic system in use at present, that equal rights and equal access for all do not exist, and that some type of legislation enacted in Washington will bring about a miraculous transformation that will be the solution to all of our problems.

It is forgotten that in countries having so-called National Health Insurance and Socialized Medicine, important persons get prompt attention and superior care, but the masses stand in line and get very impersonalized care and then only after extraordinary delays during which initially uncomplicated illness may become seriously complicated before medical assistance can be obtained. Even though it is true the persons of privilege in this country have easier access to medical care, surely the others have easier access than the less privileged in other countries. In Italy and Russia, it is reliably estimated that five percent or less of the population have access to prompt and adequate medical care. In England, a high percentage of patients with myocardial infarction are treated at home, and they do not have even the benefits of an electrocardiogram or enzyme levels. Also in England, an average patient is allotted an average of three minutes a visit. The English family practitioner is in danger of becoming, if not already, little more than a triage officer, with less and less experience in treating the really sick, with whom he has no responsibility whatsoever after they are referred to a specialist in a hospital. Many other examples could be cited as evidence that a socialized medical system is not as efficient or economical as the private enterprise system.

The costs of the national health insurance schemes under discussion in the 92nd Congress now are, or should be, appalling. The Nixon and the Kennedy bills could easily lead to bankruptcy or an insuperable burden for present or future generations. It is difficult to comprehend why we have let our government spend so recklessly since the day of the New Deal, to the extent that now the third largest item in the federal budget is the interest on the national debt. It has been tolerable to date only because the federal government can cause inflation to cover its fiscal irresponsibility and the vicious cycle is on. Inflation is the chief basis for the increasing costs of medical care. Would wage and price controls even be necessary if we could be content wih a balanced budget? Obviously, inflation would not be necessary if our government would cease and desist almost limitless borrowing, except in times of a true national emergency, in the case of war with another country endangering the continued independence and freedom of our country.

In a truly federalist system of government, such as we are supposed to have, state and local authorities should share in the discharge of governmental functions. At least one of these can certainly be continued responsibility for the medical care of the indigent sick, which is certainly our greatest need.

Surely this or some other constructive alternative must exist to the wasteful bureaucracy and lesser quality of medical care under a government administered and financed program.

WAGE AND PRICE CONTROLS OF HOSPITALS

Mr. THURMOND. Mr. President, today we are considering legislation which will extend the Economic Stabilization Act of 1970 for 1 year. On January 11 of this year, the President announced that he was introducing phase III of his wage and price controls program. Under this new program, voluntary controls will be maintained throughout most segments of the economy with mandatory controls retained primarily in the food, construction, and health industries.

Although I strongly support the President's efforts to hold down the rate of inflation, I feel that the hospitals throughout our Nation deserve special consideration. These institutions are by and large nonprofit, which distinguishes them from the food or construction industries. Also, they are governed at the local level by voluntary boards of trustees and operated as a service to the people of the communities.

Mr. President, a large part of the inflation in health care prices reflects the efforts of hospitals and other health care institutions to improve salary levels of employees. In South Carolina the average weekly salary of hospital employees in 1971 was $101.07, while the average weekly salary in manufacturing industries in South Carolina in 1971 was $108.38.

As evidenced by recent health legislation, we have become committed to improving the quality of health care and to expanding the supply of health services available to Americans. If maintaining mandatory controls on the health care industry prevents hospitals from recovering costs and from paying equitable, competitive salaries, the result may be reduced servies and a reduced ratio of personnel to patients.

Mr. President, I am sure the hospitals in South Carolina and in the Nation share the administration's goals for improved delivery of high quality, economical health services, and they will support and cooperate with reasonable approaches to reduce inflation in the health field. It is my hope that the Cost of Living Council, in conjunction with the Committee on Health Services Industry, will promulgate equitable and reasonable regulations which will allow hospitals to recover their costs and improve services and keeping with communities' needs.

In conclusion, I wish to request the Cost of Living Council to monitor the health care institutions and their efforts to strike a balance between improving health care and holding down rising costs. If reports can show that they meet the guidelines it seems only equitable that they too should be placed on a voluntary compliance standard.

THE 150TH ANNIVERSARY OF ALEXANDER PETÖFI

Mr. McINTYRE. Mr. President, recently we celebrated the 150th anniversary of the greatest Hungarian poet, Alexander Petöfi. By the time of his death in a battle against the invading armies of the tsar in Transylvania in 1849, he had become the greatest lyrical poet of Hungary and was well known all over Europe.

His works were so popular that by now they have been translated into 40 languages, and we possess several English editions, including one going back to the 1850's in the United States. Such different 19th-century writers and philosophers as Heinrich Heine and Friedrich Nietzsche in Germany, Mistral, Victor Hugo in France, were attracted to the earthy, romantic qualities of his poems and to his ideals of world freedom and democracy. Later, the German Nobel Prize winner, Thomas Mann wrote:

> Since Hungarian literature has been translated more intensively into German, I discover one Hungarian writer after the other with great pleasure. Needless to stress that I place Sandor Petöfi among the greatest lyric poets of the world.

Petöfi was a poet of patriotism who perceived his nation as an orphan fighting the mighty forces of tyranny for independence and freedom. His ardent love of his people was, however, never jingoist. In his famous poem "One Thought Torments Me," which is generally considered as his testament to humanity, he foresees his end, dying in the battle for world liberty. May I be allowed to quote some of the prophetic and visionary lines of the poem:

My life, let me yield
On the battlefield!
'Tis there that the blood of youth shall slow from my heart
And, when from my lips, last pains of joy but start.
Let them be drowned in the clatter of steel,
In the roar of the guns, in the trumpet's peal,
And through my still corpse
Shall horse after horse
Full gallop ahead to the victory won,
And there shall I lie to be trampled upon—
'Tis there they shall gather my scattered bones,
When once the great day of burial comes . . .
With solemn, muffled drumbeats for the dead,
With sableshrouded banners borned ahead,
One grove for all the brave who died for thee,
O sacrosan World Liberty!

Petöfi is, however, not only a political and social freedomfighter. He is the magician of words who can bring the rural environment and the simple people of his nation alive without losing the fine, romantic web of style. Without hypocrisy, he succeeds in simple, but beautiful language to achieve a fine literary style, a quality which made him the best read and most revered Hungarian poet regardless of the political regime.

Today as we celebrate the poet's 150th birthday, we, in the United States, want to pay homage both to the poet and the political and social writer who lived and died for the same principles which we cherish in the Declaration of Independence and the Constitution. He is spiritually and philosophically our relative, and his great love of freedom and democracy should spur us to the understanding that these emotions and understandings are common to all who love their freedom and their people.

SANTA MONICA MOUNTAIN AND SEASHORE NATIONAL URBAN PARK

Mr. TUNNEY. Mr. President, on March 15, I reintroduced a bill, S. 1270, to create an urban park in the Santa Monica mountains. The land included in the bill is the last remaining open space in the entire Los Angeles Basin. If it

is not preserved now, it will ultimately be bulldozed into oblivion.

The Sierra Club published an outstanding article on these mountains in the February edition of its bulletin. The article, by Joseph Brown, a southern California freelance writer, entitled "Breathing Space for Los Angeles—The Mountains and the Megalopolis," succinctly and accurately describes the urgent need for this urban park for Los Angeles' 10 million residents and the areas countless annual visitors.

Mr. President, 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:

BREATHING SPACE FOR LOS ANGELES—THE MOUNTAINS AND THE MEGALOPOLIS

On a balmy spring morning a lizard, in retreat from the sun's increasing heat, slithers beneath a sumac bush. Not far away, a young gray fox pauses to slake his thirst at a small stream, flanked by graceful laurels and willows standing motionless on this breathless, windless day. Then he scurries up a ridge toward a sandstone peak. To the southwest, beyond the shoreline at the mountains' feet, beyond sight or hearing of either lizard or fox but surveyed by a flock of terns, three California gray whales lumber northward. Their destination: the Arctic, their annual migration to the Baja California calving grounds fulfilled once again.

There is much more in these Santa Monica mountains, along this seashore—hidden valleys, steep cliffs, submarine canyons, placid ponds, and shady groves. Companions of the fox: bobcat, coyote, ground squirrel, deer. Waterbirds and shorebirds. And an archaeological treasure: more than 600 Indian sites dating back nearly 7,000 years identified so far, possibly only a tenth of the number still awaiting discovery.

The Santa Monica Mountains, running roughly east-west parallel to the meandering Pacific shoreline, rise abruptly out of the agricultural Oxnard plain in the west; and in the east the range buries its feet beneath the asphalt of freeways and the concrete and glass of highrises almost at the heart of downtown Los Angeles. To the north lies the sprawl of the heavily populated San Fernando Valley, but to the south the range adjoins one of the most outstanding marine areas left between Santa Barbara and San Clemente, containing an extremely rich marine biota, kelp beds, and a spectacular stretch of sand beaches and rocky headlands. Together, mountains and shore contribute to Los Angeles' physical identity, provide a clean airshed for smog-contaminated inland cities, offer recreational alternatives to overused Southern California beaches, and support a surprising variety of plant and animal species.

They are not Alps, these mountains. One would hesitate to equate them with some of California's other natural wonders—Lake Tahoe, for example, or Yosemite, or the giant redwoods. Yet to the ten million residents of the Los Angeles megalopolis, the 46-mile-long, 10-mile-wide, 220,000-acre Santa Monica mountain range and its neighboring shoreline are far more important. For Los Angeles has less public lands and parks than any other American city, including New York. Worse, open space continues to shrink as the population expands. (Although 1970 marked the first time that more residents left Los Angeles County than arrived, adjacent Orange and Ventura ranked as California's fastest-growing counties of the sixties.) The Santa Monicas constitute the last surviving unpreserved open space close by the nation's second most populous urban area. So to Los Angeles' millions, this geologically, biologically, and geographically diverse mountain range is a backyard Big Sur, an Everyman's Sierra Nevada—so close that from downtown Los Angeles, the most distant point of the range is only 90 minutes away by automobile.

Ironically, the very attribute that makes this range especially valuable as open space—its proximity to a giant urban area—also makes it attractive to developers. And now, as never before, these mountains and the adjacent seashore are threatened by mindless development. If they are lost, not only will Los Angeles and California be poorer, but the entire nation as well, for this society can no langer afford to squander its resources, especially when the welfare of one of its largest cities is at stake. Los Angeles needs all the open space it can get, and if the Santa Monicas are lost—when the need to preserve them is so clear and the means of doing so near at hand—what hope for other cities and regions to preserve the lands necessary and dear to them? Setting aside open space adjacent to urban areas is essential if our cities are to retain even the semblance of livability. The precedent for doing so exists in the two recently established national urban recreation areas in New York and San Francisco, and in many smaller open-space programs in other cities. It only remains for environmentalists to persuade federal, state, and local governments that such examples should be emulated in every urban area. Right now, the need for doing so is nowhere greater than in Los Angeles.

The bulldozer is at work on the Santa Monicas at the eastern end, near the heart of megalopolis; on the north, close to the heavily trafficked Ventura Freeway; and increasingly along the scenic Pacific Coast Highway to the south. Already, homes and apartments occupy about 32,000 acres, only 1,000 acres less than city, county, and state governments, and private property owners have been thoughtful enough to set aside for recreation and open space. Another 1,000 acres now supports a welter of commercial and industrial enterprises, ranging from shopping centers to gas stations and from movie studios to warehouses. Still another 5,800 acres remain as farmland. Only 150,000 acres—most of it in private ownership—remain in the Santa Monicas for badly needed open space. In another month or two—possibly three—the stage will be set for what possibly could be the Santa Monicas' last chance for survival as an open-space resource.

For years, the Sierra Club and other conservation organizations have advocated preserving the Santa Monicas as open space. Now, action finally seems possible. In January, 1973, for the second year in a row, California Senator John Tunney introduced a bill which would create a 100,000-acre Santa Monica Mountain and Seashore National Urban Park. This legislation, almost identical to another Tunney bill which wasn't heard in Congress last year, gives the special priority to acquiring areas of "scenic, recreational, and open-space value." It initially appropriates $30 million for land-use study and acquisition, and, just as significantly, urges consideration of a regional commission to put the program into motion. It also urges rigid land-use controls as safeguards against the "grow or die" philosophy to which local governments are traditionally prone. Although the exact boundaries for the park would not be determined until later (a deterrent to land speculators), the giant park would generally encompass the area east of the San Diego Freeway along the crest of the range to Griffin Park, and west of the freeway from Sunset Boulevard to Point Mugu. It would also include portions of the beaches and coastal canyons of Santa Monica Bay.

Senator Alan Cranston coauthored the Tunney bill, and Los Angeles area congressmen Barry Goldwater, Jr., and Alfonzo Bell introduced duplicate legislation simultaneously in the House. Committee hearings on both bills should be scheduled soon—probably by summer.

The Sierra Club supports the Tunney bill, as do other conservation groups. Both the city and county governments of Los Angeles have endorsed the concept, but while there appears to be local unity for the park itself, developers are certain to fight tooth and nail against the recommendation for regional controls. That the majority of Californians obviously approved of the regional concept was indicated by passage last November of the monumental coastal protection initiative. While the initiative at last established sensible, rigid control machinery for the seaward portion of the proposed mountain-seashore park, its authority ends at the ridge crest. A separate regional agency, originally proposed by a state study commission and inferentially endorsed by Tunney's bill, is needed to assure that haphazard development does not continue on the Santa Monica's northern slopes.

Arguing for the need for federal action, Senator Tunney last August cited the narrowing gap between Los Angeles' increasing population and dwindling open space. "Daily this process of uncontrolled urban sprawl into our *de facto* open space continues and the reality of a permanent, protected open-space and recreational area is slipping from our grasp," he said. "The enormity of the problem, and the expense of acquiring large areas and developing them for large-scale recreation—a totally new problem from the time when large scenic areas could be acquired for a pittance—necessitates federal involvement."

The Santa Monica Mountains represent precisely that sort of terrain on which development should not occur. Seventy-eight percent of the slopes were of the San Diego Freeway are in gradients over 25 percent; nearly half of them, 50 percent or more. Building on slopes this steep requires extensive cuts and fills which destroy the ecology of an area and contribute to further weakening of already precarious strata. The highly erodible soil and rock formations of the Santa Monicas' steeper slopes present a formidable slide hazard even without human meddling. Furthermore, fires, floods, and earthquakes scorch, soak, and shake the range at distressingly frequent intervals.

When the warm, dry Santa Ana winds sweep this area each fall, and humidity drops below ten percent, fires are inevitable and living in these mountains is a calculated risk. In the past 40 years, 37 major fires have blackened 400,000 acres of the Santa Monicas. It is as if the entire range had been burned almost twice over. As an example of how disastrous these fires can be, the September 1970 Bel Aire-Brentwood fire was stopped only after it had razed buildings worth $25 million. "It is not a matter of *will* the Santa Monica Mountains burn, but *when*," said one official of the Department of the Interior, which recently completed a land-use study of the range.

Winter rains come to the Santa Monicas only a couple of months after the brushfires of fall, and the steep slopes that fire has stripped of vegetation become torrents of mud. The most spectacular flood conditions occur in the Malibu Creek area north of the beach community of Malibu. The average annual runoff of the creek is 67,000 acre-feet, and during a record deluge in 1969, runoff soared to an astonishing 33,760 cubic feet per second.

And of course there are the earthquakes. The damage caused by the disastrous Sylmar

tremor of February 9, 1971—which occurred in another range near the Santa Monicas—underscores the constant danger of the ragged-branching fault lines that bisect all the mountains of this region, including the Santa Monicas. Hundreds of quakes have occurred in this range over the years, many of them along the Malibu Fault, a close cousin to the one that rattled Sylmar two years ago.

But in the Santa Monicas, nature can also be benevolent. Because of clean, prevailing winds blowing off the Pacific Ocean, the mountain range serves as a valuable airshed, diluting the already critically polluted air over the Los Angeles basin. Development of these mountains would not only add new smog as more and more two- and three-car families commute to work, school, and store from their split-level hillside perches, but would also remove the giant natural air cleaner that keeps pollutants in the metropolitan basin from becoming worse than they are.

Development also would obviously place great pressure on the mountain ecosystems, drastically altering their ability to support native plants and animals. Natural landforms, geological formations, and archaeological sites would be invariably altered or obliterated.

Finally, development of any area—especially an area like the Santa Monicas where topsy-turvy terrain carries such a high price tag—is almost certainly irrevocable. As the Interior Department study observed in what was perhaps the understatement of the year: "After huge sums of money are invested in development, a site is for practical purposes permanently altered and prohibitively expensive to buy and convert back to such a use as recreation or open space."

Yet despite the hazards and the costs, the bulldozer is ever on the move in these mountains.

Although the Santa Monicas once supported some of the densest populations in aboriginal North America—Chumash, Fernandeno, Gabrielino, and Tongua Indians, for example—these pre-Hispanic communities lived simply and left no lasting scars on the land. Even after 1848, when California was ceded to the United States, the area's ability to replenish itself kept ahead of man's ability to destroy. The gap narrowed with the opening of the transcontinental railroad in 1876. First, the immigrants filled the central Los Angeles basin, but as more were lured west to bask in a Mediterranean-like climate, they began spilling into adjoining valleys and nibbling at the foothills. Dissolution of the huge Rancho Malibu and opening of the coastal highway in the 1930's spurred growth along the coast. The population of the San Fernando Valley just north of the Santa Monicas increased rapidly in the forties and fifties, and suburbs began creeping up the canyons and gentler slopes of the nearby range.

With increasing development, open space throughout the Los Angeles area rapidly dwindled so that today, pressures on remaining lands are acute. Development continues apace in this already congested region, and existing recreational facilities are insufficient for the huge population. "Beaches are continually crowded and camping sites for hundreds of miles around often require reservations and turn thousands away on popular weekends," Senator Tunney reminds us, "Los Angeles residents are equally discouraged by the teeming crowds at the few local recreational areas, and by the crowded highways leading to facilities in outlying areas." As a case in point, Tunney cites what happened at a county park in the Santa Monica Mountains. "Its facilities were so consistently overused that officials were forced to close the area to overnight campers."

Los Angeles conservationists, long alarmed over this trend, began years ago to protect the diminishing, precious natural resource of the Santa Monicas and the adjoining seashore. Considering the enormous opposition from developers, who are abetted by a tangle of tax dollar-hungry local governmental jurisdictions, even the conservationists' smallest victories today loom as milestone achievements. In 1968, for example, they managed to block plans to "upgrade" Mulholland Drive to what is deceptively called a "scenic drive"—as if it weren't already. Their argument was devastatingly simple: how "scenic" can any road be when it is converted to a minifreeway. They also convinced the state to remove the proposed Malibu and Pacific Coast freeways from future maps, and their outspoken concern for the Santa Monica Mountains was given heavy credit for passage of the state's 1964 park bond act. (Though that still appears something less than a full-blown victory, for only a portion of the promised park has materialized.)

The idea of utilizing the Santa Monica mountain range for some kind of urban park, preserving its open space for future generations, was kindled in the late 1960's and caught fire at the start of the present decade. At a conference at UCLA in 1970, those interested in preserving this urban resource proposed such a plan, and much of the community has rallied behind the idea. About the same time, Interior Secretary Walter Hickel announced that his department was laying groundwork for a national system of urban parks—14 altogether, one of them the Santa Monica Mountains and seashore. Exhaustive, three-phase studies of each proposed park was assigned to Interior's Bureau of Outdoor Recreation, which issued its preliminary Santa Monica report last August. The report recognized that Los Angeles open space was diminishing at a time when it was needed most, but recommended acquisition of only 35,500 acres. Furthermore, the report proposed acquisition not by the federal government, but by state and local agencies, on the grounds that the Santa Monicas are good for "high quality but not high quantity use," and therefore do not qualify under existing statutes. The Santa Monica Mountains received greater priority under Hickel than they do today, even though badly needed open-space lands are now becoming increasingly developed, yet even more expensive to acquire. But as disappointing as this decline in priority may be, the coalition of urban park supporters hailed the bureau's recommendation for regional controls of the area, especially significant because the bureau suggested no other alternative.

Regional controls for the Santa Monicas are indicated because the range straddles two counties (Los Angeles and Ventura), and five cities (Los Angeles, West Hollywood, Beverly Hills, Thousand Oaks, Camarillo). Jurisdiction over recreational activities alone is divided between seven government agencies. Finally, we must add other existing and anticipated forms of regional government, such as the six-county, 106-city Southern California Association of Governments (SCAG).

As Interior's study points out, local governing bodies continually seeking new tax sources are most susceptible to pressure from developers, and fiscal considerations rather than environmental or human needs usually determine who gets what. The State Environmental Quality Control Council made this point following a hearing in Malibu in 1969. After listening for two days to a dozen local officials who gave a dozen different opinions of how Malibu should grow, the council concluded: "Each agency pursues its own narrow objectives, as required by law, which, as we have seen, generally fails to consider environmental quality."

At the same Malibu meeting, noted systems ecologist Kenneth Watt effectively punctured the one notion that most local agencies *do* manage to agree on—that only progressive development, by supposedly spreading the tax load among more people, can keep taxes down. Taxes not only do not go down when this happens, Professor Watt argued, they often go up because the additional population requires additional government services, which more than offset additional tax revenues. One study shows that in costly-to-build mountain areas like the Santa Monicas, each new dwelling costs the taxpayer between $5,000 and $10,000 for such services as roads, sanitation, and fire and police protection.

Although the Interior study endorsed the regional concept, the Ventura-Los Angeles Mountain and Coastal Study Commission, which first proposed it, did not survive long enough to see it implemented. In its final report issued last March commissioners asked the state legislature for a two-year extension and $700,000 to complete their work, but the bill to implement this request died in the 1972 session.

Still very much alive, however, are organizations to promote development in the Santa Monicas, such as Advocates for Better Coastal Development (ABCD) and its spinoffs. Concerned Citizens for Local Government (CCLC), which hastily came into existence in an effort to counter the Ventura-Los Angeles commission's recommendations. ABCD and CCLC argued that existing land-use controls are adequate for proper development of the Santa Monica Mountains and adjacent coastal zone, a ludicrous view in light of the area's past history of haphazard development. The organizations were supported in their position by Commissioner Merritt Adamson who, in an outraged minority report, sputtered that the commission's proposals—which included a moratorium on building during a further study period—would have a "devastating effect" and result in "enormous economic loss to any developer."

Tunney's bill, which would place "substantial reliance" for land-use planning on the cooperation of federal, state and local governmental agencies, nevertheless would direct the Interior Department to give serious consideration to the Ventura-Los Angeles commission's recommendations, which include, of course, the regional-control concept.

The $30 million Tunney seeks to implement his mountain-beach urban park legislation won't do the whole job; at today's prices it will buy only a small slice of the 100,000 acres envisioned for the long-sought, desperately needed mountain-seashore greenbelt. Although property in remote, less accessible section of the Santa Monicas can be purchased today for as little as $300 per acre, the beachfront pricetag at Malibu sizzles up to $3,000 per front foot. Using the Bureau of Outdoor Recreation's modest $3,000-per-acre figure, acquisition of 100,000 mountain and seashore acres today would cost $300 million, and the longer action is postponed, the higher the price will be.

Therefore, Tunney has proposed a system of acquisition priorities, considering first those sites that have unique "scenic, recreational or open-space value." These include the Point Mugu-Pacific View-Boney Mountain-Hidden Valley complex; Zuma, Trancas and North Ramirez canyons; Malibu Canyon and Century Ranch; Cold, Tuna and Santa Maria canyons; areas north and west of Will Rogers State Park; Caballero Creek; the 55-mile, winding Mulholland Highway (for development as a scenic corridor the length of the range); and seashores and associated canyons.

The $300-million pricetag for the proposed 100,000-acre urban park is staggering to be sure, but the cost of preserving the Santa Monica Mountains to the ten million residents of the Los Angeles area and eight

million annual visitors is only about $17 per person. Few could deny they would be getting one of the world's great bargains.

RED JACOBY

Mr. McGEE. Mr. President, recently the people of Wyoming were saddened by the death of one of its great gentlemen, Red Jacoby, who had just recently retired as athletic director at our State's only university.

Red Jacoby was an excellent athletic director and an exceptional leader of young men. He was credited with building the fine athletic program which promoted an intense pride on the part of the people of Wyoming over the past 26 years. His great teams provided rallying points for the citizens of my State and the alumni of the University of Wyoming who are scattered across the Nation.

Red's loss is deeply felt in Wyoming and by his many friends throughout the country.

In the March 9, 1973, edition of the Wyoming Eagle, there appeared an excellent column written by Larry Birleffi who has been as close to the Wyoming sports scene as anybody in our State. Larry has written a very humane assessment of Red Jacoby and the reasons Wyomingites felt so deeply about this unique individual.

I ask unanimous consent that the column be printed in the RECORD.

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

ABOUT AN OLD FRIEND

(By Larry Birleffi)

I can only try and set down some of the things that stand out in my mind during sad moments of a loss of a long time and admired friend over the past 25 years.

First of all, it would be certainly heartwarming to the many people who knew Red Jacoby, or who were associated with him, to learn of the many and sincere tributes paid him in the past 48 hours. It reflects the stature of the man and the admiration for his devotion to a program he built from scratch to national stature. And this comes from many parts of the country.

So rather than highlight Red's career, which is well known and will be forever recognized by the people of Wyoming, I'd like to touch upon the human side that might not have been as well known.

He had a quality that eludes so many of us. He had the unrelenting ability to understand, charm and placate others, particularly in time of crisis.

When success engendered the departure of his football coach, and their old friendships strained, Red was the master diplomat, never losing his cool. He believed to the end that no one personality is bigger than the program itself.

He set a rugged pace for himself and the people who worked for him. Intolerant with pain or low morale, his favorite earthy expression was to "suck up your belt and get to work." This is one he used a great deal to coaches and players after tough defeats.

Until this last year or so, he wouldn't admit to having a pain in his life, nor did he ever admit to taking even an aspirin. For 20 years, whenever possible, he worked out religiously at hand ball or at some physical exercise. He watched his weight like a hawk, and never gained more than five pounds over his own college days at Idaho.

With the University money, he was a tightwad, who maintained a sound fiscal policy. Personally, he was a deeply kind and generous guy. Nobody will ever know the many things, big and small, Red has done over the years in a personal way for young people, coaches, friends and others who worked for him.

SHAPED THE FUTURE YEARS

Some of his happiest hours came in the first years with Bowden Wyatt, perhaps his closest friend in those days. It was Red's manuevering and planning that landed Wyoming into its first major bowl game, The Gator, that shaped the destiny for the next two decades.

I thought one of his greater accomplishments was his handling, along with Duke Humphrey, the dissolution of the old Skyline conference and the behind the scenes chess game that led to the Western Athletic Conference.

It suddenly developed then that there would be a WAC all-right, but maybe without Wyoming. Here Red went to the memorable summit meetings at San Francisco, where he spent many long days and nights to get his school and program accepted.

In later years, he fought for the acceptance of Colorado State U.—and won—. This wasn't, of course, an entirely altruistic move on Red's part, but he was well aware of the value to the gate for both Wyoming and CSU, old rivals playing in the same league.

But one of Red's greatest qualities was his long and respected relationship with the press—the media, around the country. Those of us around the league reminisced about this the other night. Unlike past and present government administrations, who could have learned a little from the old Redhead, he never put anybody down, on any "unwanted" list; for anyone who took pot shots at him, his school, or the teams.

Instead, he took them within, and with patience and condor, he'd tell them Wyoming's side of the story. Maybe this approach is an anomaly in today's changing style, but none in the entire western half of the country, and particularly within the league, enjoyed a better relationship with the press. None has even been better liked.

NO GENERATION GAP

Some of Red's closest friends always have been people, 10 or 15 years his junior. And he gave them a feeling of indestructibility since he always appeared so physically fit.

I've never known anyone who hated to lose so much. Whether golf, the Cowbodys in football, or a game of gin rummy, for which the two of us hold the world's longest record in the sport—in land, sea and air, over 25 years, he brooded inwardly over a defeat of any kind.

Knowing this, I would always marvel at his sportsmanship. He'd be the first to duck in the visiting dressing room, whether it was a victory or a pretty tough defeat. This is something he always did. His entire operation, from facilities for visiting officials, to the fastidiousness of the fieldhouse, became a legend in college sports all over the country.

I guess I'll never understand how, through it all, and knowing how deeply he felt, Red always held his composure and judgment. And this became known everywhere.

He was major league.

These may be some of the reasons Red Jacoby was the first to engineer a home and home schedule with the Air Force, something sought by hundreds of schools around the country. None was more respected than Red by the Air Force officials in those early years.

And so, somewhat ironically, the millionth fan passed through the Wyoming fieldhouse last week, after 23 years, in the final hours of his life.

How fitting that today a final tribute will be paid in the fieldhouse where he spent so many hours building the program over a quarter of a century.

For this is the house that Red Jacoby built, a house of a million fans—and a million memories; and a legend Wyoming will never forget.

WOUNDED KNEE

Mr. ABOUREZK. Mr. President, I ask unanimous consent to insert in the RECORD an article in the Sunday, March 18, 1973, New York Times magazine by Alvin M. Josephy, Jr.

Since the beginning of the tragic and unfortunate confrontation at Wounded Knee, S. Dak., the national press corps which has covered that crisis has made no significant effort to define the issues which are the basis of the Wounded Knee confrontation.

Mr. Josephy's article is thoughtful and conveys with great accuracy the real issues involved there, and in the total context of the Federal-Indian relationship.

I hope that other members of the press will attempt to do the same.

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

WOUNDED KNEE AND ALL THAT—WHAT THE INDIANS WANT

(By Alvin M. Josephy, Jr.)

(NOTE.—*Alvin M. Josephy, Jr. is a vice president and senior editor with American Heritage Publishing Company. In 1969, he wrote a special report for President Nixon on the Bureau of Indian Affairs. His books include "The Patriot Chiefs," "The Indian Heritage of America" and "Red Power."*)

To most non-Indian Americans, the Indian occupation and destruction of the Bureau of Indian Affairs Building in Washington, D.C., last November, and in recent weeks the seizure of 11 hostages and the succeeding dramatic events at Wounded Knee, S.D., the kidnapping of the city's mayor and shootout at Gallup, N.M., the burning of the courthouse at Custer, S.D., and the scattered—but spreading—rash of similar violent confrontations between Indians and whites in different parts of the country have been shockers.

Indians *that* militant? Coming out of the quiet of 100 years of the subjugation and inoffensiveness of "out of sight, out of mind" reservation life; tearing up a Government building in the nation's capital to convert it into a defensive fortress; threatening, if attacked, to kill whites and be killed themselves because (as the Sioux and Cheyennes once cried at the Little Bighorn) "it's a good day to die"; proclaiming goals of Indian sovereignty and Indian independence and asking for intercession by the United Nations; acting, in fact, for all the world like modern counterparts of all the Indians who fought back desperately against the ferocity and injustices of the white invaders of their lands in the 17th, 18th, and 19th centuries and went down fighting as patriots—who would have believed it in 1973?

The most shocked, by far, has been the Nixon Administration, which believed genuinely that it had made a historical reversal of the tragic course of Federal-Indian relations and was giving American Indians, at last, everything they asked for. The Indians had been saying for years that it was about time that they be allowed to manage their own affairs on their reservations and not be governed like colonial subjects by Department of the Interior bureaucrats with yes-and-no power over everything that was important. They wanted the Government to continue to act as trustee, protecting their lands and rights that were guaranteed to

them in treaties they considered sacred; but if they were to break the terrible grip of poverty and low standards of education, health and other fundamentals of life that made existence so desperately hopeless for them, they wanted an end to unworkable policies and programs imposed on them by unknowledgeable white bureaucrats in Washington and the ability, instead, to devise and carry out the programs which they knew, better than others, that their people needed and could make work successfully.

Some called it freedom, some called it self-determination. But no President listened to them until 1970. In July of that year President Nixon finally sent a special message to Congress, announcing a new national attitude toward Indians—at least, on the part of his Administration. He would give the Indians the self-determination they had asked for, making them self-governing on their reservations in the same way that all other Americans were self-governing citizens of their cities, towns and counties. At the same time, like a bank that acts as a trustee for a person's money or property, the Federal Government would continue to act as trustee for the Indians, protecting the land and resources that they owned.

Nor, at first, were these simply words. The President followed up his message by sending enabling legislation to Congress (which the Congress has not yet passed) and ordering a thorough "shaking up" and restructuring of the Bureau of Indians Affairs, the agency in the Department of the Interior charged with carrying out Federal Indian policies and programs, to provide mechanisms through which the tribes could take over the management and direction of their own affairs from the bureaucracy.

Though this sudden turn of events seemed hard for Indians to believe, their incredulity began to give way to enthusiasm as the Administration drove on in the new direction. Accessibility to the highest levels of Government was given to Indians by the assignment of two of the President's White House aides, Leonard Garment and his assistant, Bradley Patterson, as troubleshooters, with an open door in the Executive Office of the President to aggrieved Indians and a directive to help Indians push the bureaucrats to carry out the intent of the new policy. Another expediting mechanism, the National Council on Indian Opportunity, chaired by Vice President Spiro Agnew and composed of eight Cabinet-level officials and eight nationally prominent Indians, established another line of communication between the Indian people and the very top of the Government. Its function was to act as a watchdog over all Federal-Indian relations and see that the Government carried out effectively the policies the Indians wanted.

The failure of Congress to enact the legislation sought by the Administration (more about those bills later); some damaging resistance and politicking by various old and new bureaucrats and officials in the Department of the Interior (more about that, too); and minor and temporary differences among some of the Indians over certain policies (which were eagerly played upon and magnified by opponents of Nixon's Indian policy in Congress and the Administration, and which also will be expanded upon below) had the effect of hobbling the drive to carry out the President's goal of self-determination. But under Louis R. Bruce, the new, sympathetic Commissioner of Indian Affairs, son of a Mohawk and a Sioux, who soon became beloved by most Indians in the country, the Bureau was "shaked up" and reorganized to prepare itself for true Indian self-determination by becoming a service, rather than a managing, agency. Brilliant and dedicated young Indians were brought in to head Bureau activities as policy makers, and for a while in late 1970, before the political hobbling began to trip them up, they gave to Federal-Indian affairs a freshness, vitality and optimism that were unprecedented in the Bureau's long and dismal history.

With all these things, including most importantly the publicly stated objective of the President, going for them, the Indians soon began to feel that maybe this time there would be no broken promises. Despite the absence of the enabling legislation which the Administration had requested, ways were found to turn over full management of their affairs to two tribes, the Zuñis in New Mexico and the Miccosukees in Florida. Dozens of other tribes, preparing to follow the Zuñi and Miccosukee example, acquired control over certain activities on their reservations, including in some cases their schools, contracting with the Bureau for funds with which to operate what they took over. At the same time, Federal spending for Indians was increased dramatically. The Bureau's appropriations rose from $243-million in fiscal 1968 to more than $530-million in fiscal 1973, while over-all Federal expenditures for Indians (including funds for Indian programs in such agencies as the Office of Emonomic Opportunity and the Department of Health, Education and Welfare) climbed from $455-million to $925-million in the same period. The Bureau also undertook studies to persuade the Administration and Congress to add wholly new appropriations for the provision of education, health, welfare and other services to so-called urban Indians, now estimated to number almost half a million, who live in cities and do not share in most tribal programs, though their needs are often equal to those on the reservations.

On many other fronts—from increased scholarships for higher education and support of Indian cultural activities to accelerated economic development programs—steps were taken to give tribes what they wanted and to ameliorate or end long-festering situations. High on the list of such actions were the settling of the land claims of the Alaskan Natives (a complicated, land-and-money compromise that satisfied most of the Natives, though in the long run it may prove not to have been in the best interests of all of them) and the return to several tribes—including the Taos Pueblo in New Mexico, the Yakimas in Washington and the people of the Warm Springs reservation in Oregon—of sacred or other desired pieces of land which the Indians felt had been unjustly taken from them and which they had been straggling for many years to regain. Each of these actions resulted largely from the personal interest of the President, the Vice President and the White House aides charged with special attention to Indian affairs and reflected, at the least, the wish on the part of the White House to strengthen Indian faith in the Administration.

Then why in the face of all this, did the sudden explosion occur at the Bureau of Indian Affairs Building last November that seemed to say, also at the very least, that there was no faith, only a desperation and hatred so deep that the Indians were ready to kill and be killed in the nation's capital? The answer lay both in the long, dishonorable history of this nation's treatment of Indians, which could not be overcome in so short a time, and in new frustrations and injustices that undermined and threw into question among many Indians the genuineness of the President's policy.

From the start, the enunciation of that policy and the incipient efforts to implement it seriously disturbed some of the top officials of the Department of Interior, various people in the Office of Management and Budget, who question and approve the conduct of, and budgeting for, Indian programs, and certain members of the House and Senate Committees on Interior and Insular Affairs, who are responsible in Congress for Indian legislation. The reason for their wariness and distress is not hard to fathom. It has often been said, with considerable truth, that there is big money in "Indian business." The Indian tribes still own more than 55,000,000 acres which, with their water, minerals, timber, grazing lands and other natural resources, represent a sizable portion of that part of the nation's territory which is still largely unspoiled, unexploited and unpolluted. For many years the acquisition of these resources has been the objective of numerous non-Indian users, whose pressures and tactics, often questionable if not outright fraudulent, have brought them into serious conflicts with the Indians. Inevitably, the conflicts have turned the white interests for help to Senators and Congressmen of the Interior Committees and to friendly officials of the Department of the Interior or other agencies of the Administration, and almost as inevitably the Indians have suffered.

Most of the conflicts concern matters falling within the interests of agencies of the Department of the Interior and the two Interior Committees in Congress—land, water rights, mineral deposits, grazing ranges, rights-of-way, etc. Indeed, some of the chief usurpers of Indian resources have been Department of the Interior agencies themselves, like the Bureau of Reclamation, which has diverted Indian water to non-Indian reclamation projects and built dams that flooded Indian lands, as well as the National Park Service and the Bureau of Land Management. The Department—and indirectly the two Congressional committees concerned with its activities—therefore wears two hats. As trustee of Indian resources, it is bound by law to protect tribal holdings; at the same time, its own agencies and various private interests (who, incidentally, have more votes and can contribute more campaign funds than Indians) must also receive sympathetic representation by the Department and its solicitors.

The conflict of interest has worked increasingly against the Indians, but in truth it has been to the liking of Western interests, some of the officials of the Department, and various Congressmen and Senators. It has kept Indians and Indian resources under their thumbs, so to speak, permitting them to exercise control over the course and disposition of the conflicts. Any move toward self-determination, any restructuring of the Indian Bureau that permitted the Indians to edge closer to decision-making authority over their own affairs (i.e., to get out of control), was something to oppose.

Perceiving this conflict of interest, the President nevertheless sent to Congress in the package of seven Indian bills he wished passed a proposal to establish an Independent Trust Counsel to represent the Indians in conflicts with Interior and other Government agencies. This has resulted in one of the first strains of Indian resentment, for not only has Congress predictably failed to enact the proposal, but the Administration, with the passage of time, has given scant evidence that it had a sincere commitment to this or any of its other Indian bills, or really wanted them passed.

Meanwhile, grabs for Indian resources have reached the dimension of a massive assault by all sorts of conglomerates and huge industrial combinations. Tribe after tribe has become split into factions, as the Government has encouraged and aided coal companies to strip-mine Indian lands, much of them held sacred by the traditionalist Indians (those loyal to their ancient ways and spiritual beliefs); power companies to build monster, polluting generating plants, transmission lines, railroad spurs and truck highways on the reservations; and real-estate and

industrial-development syndicates to erect large projects among the Indian settlements for the use of non-Indians.

Conflicts with a marked antiwhite as well as antiGovernment character have broken out over many of these developments. Angry groups of Indians, composed not only of young activists but of all elements of the people, have protested the Bureau of Reclamation's diversion to a non-Indian irrigation project of the water of the Truckee River, the only major source of water for Pyramid Lake in Nevada, which is practically the entire reservation and the main supplier of income and livelihood to a Paiute tribe but which consequently is now drying up. Other Indians have become inflamed by strip-mining and power-plant developments on the Hopis' sacred Black Mesa in Arizona, on Navaho lands in Arizona and New Mexico and on the Crow and Northern Cheyenne reservations in Montana. Still others have fought white real-estate developments on a number of Southwestern reservations. These, and other white intrusions have been accompanied, moreover, by frictions that have made them worse: Indian water rights have been won away from tribes by deceit; leases have been signed secretly; their terms have been unfair; and even those terms have not been lived up to and are not enforced.

The method by which leases for Indian-owned resources are approved and signed has exposed another—and extremely serious—source of Indian anger. Prior to their military defeat by white men, all tribes had centuries-old methods for governing themselves, some by councils of wise and respected civil headmen and chiefs, others by hereditary religious or clan leaders. But in 1934 the Federal Government imposed on almost every tribe a uniform system of tribal councils—styled in the white man's way—that named the top tribal officers. Council members were supposed to be elected democratically by the people, but in practice the new system was so alien to large numbers of Indians that majorities of them on many reservations have refused consistently to vote in tribal elections and continue even today to regard the councils as institutions of the white man rather than of their own people.

The gap thus created between the tribal governments and the Indians who did not accept them was bad enough in the past—indeed, it has been another inhibiting factor in Indian development for a long time—but the move to give Indians self-determination, together with the greatly increased funds that have been appropriated for Indians in recent years, have worsened the situation by increasing the power and financial resources of the councils and tribal officers and, in effect creating small political and economic Indian "establishments" on many reservations. The present Administration, looking for leaders who will run a tribe's affairs, has encouraged this development. But the system has resulted in accelerating the growth of corrupt little tyrannies, composed sometimes of the tribal councils and their friends and relatives, sometimes simply of the tribal chairman and his treasurer. These, acting in collusion with Government officials, the white interest desiring to exploit the reservation resources and the tribal lawyers (usually white men, but in all cases persons who *must* be approved by the Secretary of the Interior), have come to serve almost as willing arms or accomplices of the Federal Government.

The people's antagonisms to their tribal governments (sometimes exacerbated by added irritations, such as white-oriented mixed bloods who do not speak the tribe's language but who rule high-handedly over full bloods) have split many reservations. The Brule Sioux on South Dakota's Rosebud reservation have seethed for many years over a series of allegedly corrupt tribal officials. On the neighboring Pine Ridge reservation, the frustrations of Oglala Sioux who tried unsuccessfully to oust their tribal chairman, Richard Wilson, a mixed blood charged with corruption, nepotism and with being a puppet of white interests, were a major contributing cause of the outburst at Wounded Knee. Crows, Northern Cheyennes, Hopis and Navahos have had serious internal divisions over the secretive leasing activities of their tribal leaders, and numerous other groups, including the Mohawks in New York State, the Cherokees and other tribes in Oklahoma, and Indians at Tesuque in New Mexico and in Minnesota, Nebraska, the Northwest and throughout the Dakotas, have been in conflict with their governments.

The truth is that on few reservations today are the tribal leaderships fully accountable, or responsive, to the people (few Hopis knew about the leases to strip-mine Black Mesa or even today can find out what happens to the lease money paid to the tribe by the Peabody Coal Company. And the laws governing the Indians are still such that the people of few tribes possess the legal or political powers to "throw out the rascals" or reform their systems of government. Yet when they complain to the Bureau of Indian Affairs, they are told with utter hypocrisy that, because of the Indians' wish for self-determination, the Government will no longer interfere in internal tribal matters. But every Indian knows that the leases that threaten their reservations and are bringing them into conflict with white exploiters had to be approved by the Government, that in most cases it was the Government that first brought the white companies to the tribal chairman and lawyer, that the Government advised the chairman in the writing of the leases, and that it, finally, encouraged him to sign it.

The result of this—and of a number of allied developments—has been the growth of opposition, often sparked by activists, traditionalists and Indian landowners, against the reservation power establishments, whose members are termed derisively "Uncle Tomahawks" or "apples" (red on the outside, white on the inside), because they are viewed as tools of the white interests and betrayers of their own people. The problem has become more serious as the white intrusions have increased and become more insensitive to Indians and their ways of life, and as efforts by the Indians generally to bring them under control or stop them have been frustrated. Recognition of the Government's role in directing the Indian power establishment, even while it talked of self-determination, took on the coloration of anger over betrayal and, together with the developments that were occurring in Washington and on different reservations, began to set the stage for an Indian explosion.

In Washington, as noted, invigorating changes had begun to be made in the Bureau of Indian Affairs. It was not long, however, before storm signals were flying there too. Old-liners in the Bureau began to drag their heels, sabotage directives and engage in politicking against the new young Indian policy makers and their restructurings. The old bureaucrats who felt that their jobs and petty authority were threatened turned in three directions for help: they whipped up fears and jealousies among reservation tribal chairmen against the young Indian "militants," who, they said, had come to the Bureau from the cities, did not know the problems of the reservations and were instituting policies that would hurt the reservation Indians. Their charges were false, but they served for a time to arouse opposition among some tribal chairmen against Commissioner Bruce and any changes in the Bureau. At the same time, the old-liners appealed to members of the Senate and House Interior Committees, warning them that control over the tribes was slipping away, and to higher officials of the Department of the Interior, complaining of gross inefficiencies on the part of the allegedly inexperienced newcomers.

All these forces were strong enough to combine, in 1971, to halt the efforts to achieve the goals of President Nixon's message. Within the Department of the Interior, the line of authority in Indian affairs moved upward from Commissioner Bruce to Harrison Loesch, Assistant Secretary for Public Land Management under Secretary of the Interior Rogers C. B. Morton. Loesch, a strong-willed, determined man, who knew practically nothing about Indians and announced when he assumed office in 1969 that he had never been on an Indian reservation, became really the top Indian-affairs official in the Department. This put the Indians at a disadvantage for Loesch, who comes from Colorado and had good relations with Colorado Congressman Wayne Aspinall, chairman of the House Interior Committee, was more in tune with Western interests—whose eyes were on Indian resources than he was with the tribes, and failed at any time to give evidence that he was in sympathy with the President's Indian policy.

Responding to the pressures of all those who, from intent or ignorance, objected to what the Bureau was doing, Loesch and the Department, with Congressional backing, took Bruce's powers from him, transferring them to a new Deputy Commissioner, John O. Crow, an unpopular old-liner, himself part Indian but one who had been associated with a discredited policy of the nineteen-fifties that would have ended the reservations, and who was removed from the Bureau in the nineteen-sixties by Secretary Stewart Udall. The Bureau's new policies, including the granting of self-management to the tribes, were halted; the whole thrust toward self-determination was shunted aside, and even the White House aides, Garment and Patterson, and the Indian members of the National Council on Indian Opportunity felt politically helpless. An almost instantaneous, united and highly vociferous Indian reaction throughout the country, however, resulted in second thoughts. A partial reversal followed, but the damage was done. Although Bruce's powers were somewhat restored to him, Loesch and his aides constantly undermined Bruce and frustrated many of his objectives, hamstringing and immobilizing those in the Bureau who tried to get self-determination back on the main track of Indian affairs.

As a result, during 1972, Federal-Indian relations, off to so excellent a start in 1970 following the President's message to Congress, deteriorated rapidly. The Indian activists, many of them well educated, living in cities and familiar with the ways of the whites, lost patience with the establishment leaders on the reservations, who seemed to them to be playing willing stooges to a double-dealing Federal Government. Many of the activists joined the militant American Indian Movement and used every occasion to demonstrate and force confrontations with offending whites. They were, in truth, given many opportunities. Despite the increased Federal appropriations, services were not being delivered with any more efficiency to the Indians, nor were the added funds making a noticeable impact on age-old reservation problems. (The Government was spending almost $2,000 for each reservation Indian, yet the average annual income of each Indian *family* remained considerably below that figure.) To Indians who were aware of the affluence and high standards of living in the rest of the country, the continuation of the grinding poverty, the denials and the frustrations of families on the reservations were intolera-

ble, as were the leases which the tribal leaders approved and which threatened their lands, resources, health and continued existence as Indian peoples.

In addition the prejudices, atrocities and injustices against Indians continued. In the Puget Sound area, for instance, Hank Adams, a courageous Assiniboin-Sioux and well known Indian intellectual, who had been leading a struggle for the Indians' treaty-guaranteed fishing rights in that region, had been shot and seriously wounded at night, and no one was arrested. In western Nebraska, Raymond Yellow Thunder, an elderly Sioux, was stripped of his pants by white tormentors, humiliated for fun before a white audience, then murdered and left in the cab of a pickup truck. In Philadelphia, Leroy Shenandoah, an Onondaga veteran of the Green Berets and a member of the honor guard at President Kennedy's funeral, was brutally beaten and shot to death by police who justified the act as "excusable homicide." In California, Richard Oakes, a Mohawk known to all Indians as the leader of the occupation of Alcatraz Island, was slain by a white man whom the law treated lightly. In Custer, S.D., Wesley Bad Heart Bull, a Sioux, was killed and a white gas station attendant was accused in the slaying. When the dead Indian's mother protested that the white man faced a maximum of only 10 years in prison if he were convicted, she herself was arrested by the white authorities and held on a charge calling for a maximum sentence of 30 years in prison.

Such incidents were neither new nor unique, but now they fed fuel to a fire that was rising. Neither the Federal Government nor state or local officials nor their own tribal leaders seemed willing or able to protect the Indians. Out of a feeling of betrayal, of promises broken anew, the descent on the national capital, known as The Trail of Broken Treaties, was organized during the summer and early fall of 1972. Several Indian groups, as well as individuals from different reservations and cities, joined to send three automobile caravans from Los Angeles, San Francisco and Seattle across the country to Washington, D.C. The plan was to arrive there just before the national election, to bring the Indians' demands to the attention of the country, and to President Nixon and his opponent, Senator McGovern. The groups agreed that the mission would be peaceful. Church groups and others donated money, and the caravans started off in October, stopping at reservations and Indian centers along the way and picking up holy men, mothers and fathers with their children, young couples, old people, anybody who would come. There was no idea of violence; to some it was even a holiday, a great adventure, a chance to leave the reservation for the first time and see the rest of the country.

The caravans included large contingents of young members of the American Indian Movement, a confrontation-experienced group. The leading architect of the undertaking, however, was Hank Adams, the Puget Sound fishing-rights leader, who had run unsuccessfully in last year's Washington State Congressional primary (though garnering more than 10,000 votes). Adams helped organize the caravan from Seattle and was head of a group called Survival of American Indians Association. As early as 1971 he had chaired a committee which had framed a 15-point program for a new national Indian policy "to remove the human needs and aspirations of Indian tribes and Indian people from the workings of the general American political system and . . . reinstate a system of bilateral relationships between Indian tribes and the Federal Government." When the Washington-bound caravans paused in Minneapolis and St. Paul, the 1971 proposals for a new Indian policy became the foundation for a set of 20 demands, calling principally for the reinstitution of a treaty-making relationship between the U.S. and the "Indian Tribes and Nations."

The events that ensued in the nation's capital reflected possibly the ultimate in bad faith on the part of the Government. On Oct. 11, Harrison Loesch had issued "specific directions" that the Bureau of Indian Affairs was "not to provide any assistance or funding, either directly or indirectly" to the Indians coming to see the President. Before the caravans' arrival, however, Robert Burnette, a Rosebud Sioux, former executive director of the National Congress of American Indians and author of "The Tortured Americans," together with other Indian advance organizers in the capital, persuaded Loesch to change his mind and offer certain facilities to the Indians while they were in Washington. Although President Nixon would be in California, the organizers won promises that the Indians would be able to meet with policy-making officials of the Government, including White House representatives of the President, to discuss their grievances and proposals.

But these expectations were soon destroyed. Living quarters arranged for the Indians were inadequate and rat-infested. The top officials they expected to see turned out to be Harrison Loesch, Bradley Patterson from the White House and lesser figures who angered them by their disdain and patronizing. Bitterness reached the boiling point when the Indians were barred from entering Arlington Cemetery to visit the graves of Indian Heroes, including Ira Hayes, a Pima and one of the famous Marine flag-raisers at Iwo Jima in World War II. Finally, the explosion came. The Indians had been told they could move into the auditorium of one of the Government buildings. Just before they got to the building someone locked the door—the rumor being that Loesch had ordered them kept out. The Indians hastened to the Bureau of Indians Affairs Building and, after a conference, were told that they could stay there. When the guard was changed, however, the new shift apparently ignorant of the agreement, tried to oust the Indians. A scuffle ensued, the guards themselves were ousted and the Indians took possession of the building, remaining in control of it for almost a week.

The damage they did, by some estimates more than $2-million, reflected their anger and frustration as well as their determination to defend the building against attack, laying down their lives, if necessary, like Indians of the past who fought for their people. It was not a hollow gesture. Once the building had been occupied, Department of the Interior officials showed almost unbelievable insensitivity. Refusing to meet with Indian negotiators until the building had been evacuated, Secretary Morton unknowledgeably termed the occupiers a "small, wilful band of malcontents." A few tribal chairmen were induced to hurry to Washington to condemn the occupiers. The chairmen's presence angered the Indians even more. Led by Hank Adams and tribal religious leaders, some of the occupiers humiliated the chairmen by denouncing them as traitors to their people. Thereupon the chairmen, saying that all Indians supported the aims of the Trail of Broken Treaties but hoped there would be no violence, returned to their reservations. More seriously, the Government brought busloads of armed men and won court permission to oust the Indians by force if they did not leave the building peaceably.

The final dealine was 6 P.M., Nov. 6, the eve of Election Day. Most of the damage inside the building occurred that afternoon as the Indians prepared barricades of business machines and furniture and weapons to defend themselves. Dynamite, rumored to have been supplied by Black Panthers in Washington, who had been inside the building to pledge solidarity with the Indians, was said to have been placed on the top floor to blow up the structure; the corridors and office floors were littered with papers from files, providing the makings of a conflagration; and Molotov cocktails had been prepared. The solicitors and other officials of the Department of the Interior must have known that a pitched battle, with many casualties on both sides, threatened the nation's capital, yet at 5 P.M. on the day before the American people were to go to the polls, they were still determined to risk a national tragedy, with enormous historical consequences, by storming the building.

The disaster was averted at the last minute by a stay from the U.S. Court of Appeals and the intervention of the White House.

That evening Leonard Garment, Bradley Patterson, Louis Bruce, and Frank Carlucci, then Deputy Director of the Office of Management and Budget, began the first of several negotiating sessions with the Indians that led eventually to the peaceful evacuation of the building and an agreement by the White House to consider the Indians' 20-point program.

The Indians left Washington, some of them taking cartons of documents from the Bureau of Indian Affairs files; the Government did consider the 20 points and turned them all down, and a new—and still undefined—chapter opened in Federal-Indian relations.

As the tribal chairmen had stated, most Indians in the country approved of the aims of the caravans, though they disapproved of the destruction of the building. The entire affair, including the taking of Government documents, however, angered many members of Congress, as well as officials of the Administration, who regarded the episode as reflecting an ungratefulness on the part of Indians generally. The Government, Secretary Morton announced soon afterward, had tried things the Indian way; now it would do things its own way. That sort of punitive mood against all Indians has not yet died in Washington, and it remains to be seen whether punishment will come and, if so, what form it will take. Initial indications of the way the Administration will henceforth conduct its relations with the tribes do not bode well for the Indians.

John Crow and Harrison Loesch were fired, but so was Commissioner Bruce, who angered his superiors by staying inside the occupied building with the Indians one of the nights. Loesch, meanwhile, has been hired as a staff counsel by the Senate Committee on Interior and Insular Affairs, where, if he is of a mind to, he can wreak a terrible revenue on the Indians. In the White House Leonard Garment and Bradley Patterson have been told to "get off their Indian hobby horse" and turn to other things, and restructurings inside the Executive branch foretell abandonment of all the hopes and promises held out by the President's message to Congress in 1970. A new acting Commissioner of Indian Affairs, with little power, will report to Secretary Morton, who will also have little power, for he, in turn, will report on the "human affairs" of Indians to Secretary Caspar Weinberger of the Department of Health, Education and Welfare, and on "land and resource affairs" to Secretary Earl L. Butz of the Department of Agriculture. Both those men, in turn, will report to John Ehrlichman in the White House. This decision-making power over Indian affairs is further complicated by the appointment of John C. Whitaker as Under Secretary of the Interior, with authority over Indian affairs, and the ability, apparently, to report directly to Ehrlichman, by-passing Secretary Morton, whom

Indians are already calling "Secretary of his limousine."

All of this raises new questions for the Indians in dealing with the Government: Whom do they see? Who will see them? Who can speak with authority? Who will have the last word in decisions? It also suggests a diffusion of Indian affairs throughout the bureaucracy and a blending of Indian interests with those of non-Indians (will they be "packaged" into programs for the population as a whole?). If this occurs, what happens to the special and unique Federal-Indian relations, concerned with treaties, treaty rights, trustee functions guaranteed services, etc.? And, finally, what happens to self-determination and to the reservations, the sacred lands and their resources, the tribal organizations, and the tribes themselves? In short, what happens to the Indians as Indians?

These questions are unsettling to the tribes, filling them once more with fears for the future, and, worst of all, persuading them that they may be facing another heart-breaking turnaround of Indian policy. Nor are their fears groundless. The Presidential impoundments of funds appropriated by Congress, being felt by other elements of the population, are already striking hard at reservations, where health, education and development programs, begun and expanded so optimistically with the increased appropriations of recent years, are being cut down or abruptly ended before they have had a chance to accomplish their intentions. Community development, preschool training, road building, medical services, scholarships—every aspect of the Indians' plans to lift themselves from poverty and helplessness—are being affected. And as they protest and demonstrate with the only method they have to call attention to their plight, the method itself hardens the attitude of the white law-enforcement agencies toward them in a manner that recalls the 19th-century use of troops against their forefathers, and further divides the Indians between the fearful ones, the venal ones and the determined patriots.

Must the "Indian problem" (really the white man's problem) go on then, with more human misery and suffering, for another generation? It is abundantly clear that it need not. As a first step, the Nixon Administration can—indeed, must—restore the policy of tribal self-determination as enunciated in the President's message of 1970, halting the diffusion of Indian interests throughout the Government, supporting again the goals of former Commissioner Bruce, and establishing accessibility for aggrieved Indians to a decision-making center in the White House. It must, in addition now, go further by enabling the Indian peoples to attain true political freedom and liberties that will permit them to establish forms of government of their own choosing on their respective reservations, letting them run their own lives and make their own mistakes as do the citizens of any other community. Only in this way will responsible, and responsive, governments emerge, able to protect their people from exploitation, abuse and injustices. The principles, if not the terms, of the Trail of Broken Treaties' 20 points must also be seen from the Indian viewpoint as viable guidelines for the protection of their lands and resources. It may be necessary to take the route of executive order, rather than go through Congress, to set up some sort of independent trust counsel and free the Indians from the stranglehold of Interior and its committees in Congress. But however it can be most rapidly accomplished—and even President Nixon once acknowledged its urgency—the committed goal must be the immediate and strict observance of treaty guarantees and trustee obligations by the Federal Government.

Finally, poverty and its attendant demoralizing ills among Indians on and off reservations must be attacked and broken without inhibition. The Government has responded with billions of dollars for aid and rehabilitation programs for suffering peoples, including its former enemies, everywhere in the world. The same is certainly due its own citizens, the American Indians. A massive, long-range public-works program, supplying tens of thousands of Indian jobs, could provide roads, housing, water and sanitation facilities, schools, hospitals, utilities, and other improvements needed and desired by the Indians. Numerous other programs, devised by the people themselves, who know better than the whites what they need and can carry out successfully for their own development, await only Federal funding.

But will the Administration listen to the Indians and respond wisely to their new crisis? Only President Nixon himself now has the power to supply the answer.

THE FIRST AMERICANS

According to the U.S. census of 1970, the Indian population of the United States today, including Eskimos and Aleuts, is approximately 843,000, with some 480,000 of them living on or near reservations and the rest in cities or rural communities. Their heaviest concentrations, as estimated in 1972, are in Arizona (117,000), Oklahoma (84,000), New Mexico (82,000), Alaska (59,000) and California (49,000). At the time of the first white settlements in the early sixteen-hundreds, it is estimated that about one-million Indians lived in what is now the United States. Studies still under way suggest that many Indians were wiped out in epidemics of Europeans' diseases before the tribes even came in contact with the white frontier settlers, and that the actual figure may therefore have been considerably higher. Today, Indians are increasing at a faster rate than that of the over-all U.S. population.

By treaty and other obligations, the Bureau of Indian Affairs serves 267 Federally recognized Indian land units, including reservations, colonies, rancherias and communities, and 35 groups of scattered public-domain allotments and other off-reservation lands. Indians also live on state-recognized reservations and on lands which are no longer, or never were recognized as reservations by the Federal Government or a state.

PLIGHT OF DANIEL TEITELBAUM

Mr. TUNNEY. Mr. President, I have already advised this body of the strong support which Mr. Stuart Lotwin of Los Angeles has provided to Mr. Lev. Lerner, a Soviet Jew who was in desperate need of assistance last year. I am pleased to report that Mr. Lerner is now free—living in Israel.

Recently, Mr. Lotwin has attempted to assist anther Jewish citizen of the Soviet Union, Mr. Daniel Teitelbaum, of Leningrad. I know that all of us join in expressing our support to Mr. Teitelbaum's quest for freedom. As an expression of that sentiment, I ask unanimous consent that the text of a telephone conversation between Mr. Lotwin and Mr. Teitelbaum which occurred on January 14, 1973, be printed in the RECORD.

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

PLIGHT OF DANIEL TEITELBAUM

Telephone conversation between Stuart Lotwin, Los Angeles, California and Daniel Teitelbaum, Leningrad, USSR on January 14, 1973.

S.L. Shalom, Friend Teitelbaum.

D.T. Yes, yes.

S.L. Is that you? This is your friend Stuart Lotwin calling from America.

D.T. I understand, I understand.

S.L. You understand; well listen to me and we'll converse. My name is Eliezer and I am speaking to you because Mr. Lotwin does not speak Yiddish.

D.T. I understand.

S.L. He is a friend of Lev Lerner who is now in Tel Aviv. Do you understand?

D.T. I understand.

S.L. I want to ask whether you have any news to convey to us. And I'll allow you to talk as long as you please.

D.T. Good! Good! Well we have no concrete (hard) news. With us it is very hard. Things are very tough in Leningrad.

S.L. Hard?

D.T. In the last days we have had bad answers.

S.L. Bad answers?

D.T. Refusals!

S.L. Refusals! I understand.

D.T. They refuse us, the reasons are ridiculous, silly.

S.L. I understand.

D.T. With one of the refusal is on account of "secret work."

S.L. What is the name of the one that was refused on account of "secret work?"

D.T. Chernoch. He has tried 4½ years and still he is refused. And another Bert, a woman whose daughter works on secret work, but daughter *does not* want to leave, only the woman who is 60 years old and she cannot leave.

S.L. Tell us about yourself.

D.T. We have been waiting for two years.

S.L. And you're refused?

D.T. I submitted my documents last time in October. Already 3 months and some days, and yet not received answer. We rode to Moscow and there we were told that we would be getting answers. First they said November and then December. They promised us. And now in January. You understand?

S.L. I understand each word. Continue to talk.

D.T. Good, good. They had lied to us. Now there is a commission in Leningrad. The Minister was here.

S.L. What is his name, the Minister?

D.T. Sholahov.

S.L. Speak, speak.

D.T. We have written to every place possible. To Chief of police, the government, the Kremlin and all the time we get one answer. We have to get our documents at the Leningrad OVIR.

S.L. Please wait a minute! I must ask you several questions. We well understand your situation, but we must have certain information in order to be able to help you. What is your wife's name?

D.T. Margaret is her name.

S.L. How old is she?

D.T. 33 years.

S.L. Is she working?

D.T. No.

S.L. What was her work?

D.T. At a factory.

S.L. Factory?

D.T. Where they make ships—a shipyard. She does not have a higher education. She is a typist—a copier.

S.L. I understand—she operates a typewriter. Do you have children?

D.T. Two children.

S.L. Boys or girls? What are their names?

D.T. A boy, 6 years, Ilia; a girl, 4 years, Sonia.

S.L. Good. Are you now working?

D.T. I was working before I submitted my papers.

S.L. What were you working as?

D.T. How do you call it—yes—Senior Scientific.

S.L. What was your work? I don't understand it completely.

D.T. A Scientist—an electrical engineer.

S.L. Were you employed where secret work was done?

D.T. No, nothing secret.

S.L. Well, I want to tell you this. We are with you 100%. We want to help you. We will help you. Nothing will deter us until you get permission to leave. Do you understand?

D.T. Yes, I understand.

S.L. And above all, I want to tell you that we will not forget you. I speak not only for myself but for a whole group of people. And now I'll tell you some news from here. Two days ago I heard from my Senator. He knows your name already. He has spoken about you to our Department of State. Secondly, the largest newspaper in the Western United States, here in California, knows of you. Perhaps in several weeks your name will appear in that paper.

D.T. I understand.

S.L. Now I want to ask you. Are there any English speakers in your family?

D.T. I know several who speak English but not very good. I can give you their telephone numbers.

S.L. Don't bother. I want to talk with you. Do you want letters in English or Yiddish? It is all the same to us.

D.T. It is immaterial to me. I know a little English. I don't speak but I read and translate.

S.L. Now I want you to answer three questions. First, do you have enough food?

D.T. Again.

S.L. Do you have enough food?

D.T. Again.

S.L. Food?

D.T. Food, No! We still have food.

S.L. How about clothing?

D.T. But I want to tell you this. It is very hard for us. Most of us are unemployed. We have families where neither husband nor wife work.

S.L. Clothing? Warm clothing?

D.T. Yes, we have although you could help us with that.

S.L. Tell me—have you ever heard of certificates to Vneshposyltorg stores?

D.T. I received them once.

S.L. Do they help—the certificates?

D.T. They help. I want to tell you that our greatest hopes depend on you, only on you.

S.L. We assume the burden. We promise you that.

D.T. We're putting great hopes in your Congress.

S.L. We, too, are putting our hopes in our Congress. Give our love to your wife and son and daughter. Be well—we will talk to you again.

D.T. Good, good.

S.L. Shalom.

D.T. Shalom.

S.L. L'Hitraot.

D.T. L'Hitraot.

S.L. Shalom.

DANIEL TITELBAUM

(Telephone nr: 302306)

Daniel Titelbaum is 34 years old. His wife, Margarita, is 32. They have two children, a boy of 6, Ilya, and a girl of 4, Sonya.

Daniel Titelbaum is a Candidate of Technical Sciences. He applied for permission to go to Israel in June 1971. In December 1971, he was forced to leave his scientific job and work as an engineer. His application was initially rejected on the grounds that, when he had worked on his thesis, he had had access to secret documents. He was able to prove, with documentary evidence, that there were no grounds for refusal on the basis of secret work. The excuse was then given that his wife had had access to secrets.

Margarita Titelbaum was a draughtswoman and had last worked where there was possible access to any secrets in 1967. She stopped working altogether in August 1971. The Soviet authorities have made no further references to any previous possible involvements with secrets of any sort.

Daniel Titelbaum has one sister, who with her family, has been living in Israel since April 1971. His other sister lives in Riga. This sister and her husband are ill. Daniel Titelbaum's father, aged 77, lives in Leningrad but hasn't applied to go to Israel.

The father is a very observant Jew and has suffered over the years because of his strong Jewishness.

The father has spent a considerable part of his life in prison camps and labour camps. He was imprisoned at various times during the 1920's and 1930's. He was sent to Siberia in 1941. The family followed him there and lived in Siberia from 1941 until Stalin's death in 1953. In 1953 the family was rehabilitated and returned to Riga. Titelbaum's father was not freed again until 1951, but was not allowed to leave Siberia until 1954.

Titelbaum's gross earnings are Roubles 210 per month. If he had been permitted to remain in his original job, he would now be receiving Roubles 280 per month.

Titelbaum will have to pay 13,000 Roubles diploma tax.

SALT II: CAN THE ARMS RACE BE ENDED?

Mr. STAFFORD. Mr. President, this morning 14 Members of the House of Representatives, headed by the Honorable G. WILLIAM WHITEHURST of Virginia, issued a paper urging President Nixon to pursue vigorously further agreement at the second round of the Strategic Arms Limitation Talks. The paper contains a thoughtful analysis of the problems involved in SALT II negotiations and of the opportunities which are available to the United States if SALT II negotiations are successful.

I ask unanimous consent to print the paper entitled "SALT II; Can the Arms Race Be Ended?" in the RECORD. I hope that my colleagues in the Senate will examine this excellent dissertation.

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

SALT II: CAN THE ARMS RACE BE ENDED?

(Prepared by Mr. G. William Whitehurst, Va., Mr. Lawrence R. Coughlin, Pa., Mr. John Dellenback, Oreg., Mr. Pierre S. duPont, Del., Mr. William Frenzel, Minn., Mr. Gilbert Gude, Md., Mr. H. John Heinz, III, Pa., Mr. Frank Horton, N.Y., Mr. Paul McCloskey, Calif., Mr. Stewart McKinney, Conn., Mr. Charles A. Mosher, Ohio, Mr. Howard W. Robison, N.Y., Mr. J. William Stanton, Ohio, and Mr. Charles W. Whalen, Jr., Ohio)

MAINTAINING THE MOMENTUM OF SALT

The SALT I accords, negotiated by the Nixon Administration and signed on May 26, 1972 in Moscow, were the culmination of the most significant arms control effort in the history of the 25-year-old nuclear arms race. The accords—the product of three years of hard bargaining—ended the threat of heavy ABM deployment by both sides and put a ceiling on the numbers of land-based intercontinental ballistic missiles (ICBM's) and submarine-launched ballistic missiles (SLBM's) allowed by each side. While SALT I did not limit technological improvements to either ICBM's or SLBM's and did not encompass all strategic weapons, the accords did create a major diplomatic momentum towards further arms control efforts—symbolized by an agreement by both sides to go further in arms limitation at a second round of SALT.

There are five principal reasons for continuing the work begun at SALT I:

First, further negotiations are necessary merely to preserve the gains of SALT I. The Interim Agreement, which limits both ICBM and SLBM levels, will only be in effect until 1977. Unless some permanent ceiling is placed on these weapons by negotiators at SALT II, both sides will be free to add to their strategic missile inventories after this date.

Second, while the SALT I accords eliminated much of the uncertainty and fear that surrounds the Soviet-American nuclear competition, the arms race continues—particularly in areas not controlled and limited by the SALT I accords. Both the United States and the Soviet Union are currently engaged in building a wide array of new strategic weapons, designed both to augment and replace portions of their existing forces. The Administration's fiscal 1974 budget includes funds for a new strategic bomber, a new SLBM submarine, multiple warheads for its strategic missiles, and a cruise missile submarine. Former Secretary of Defense Melvin Laird's fiscal 1973 military posture statement reports that the Soviet Union has built a new bomber, a longer range SLBM and new SLBM submarines, and is developing multiple warheads for its missile force. In some cases these programs may be justified in order to replace obsolete systems, or because they contribute further to strategic stability. But the best hope in the long run for guarding against the almost unthinkable prospect of nuclear war lies in further attempts through forums such as SALT to mutually control and limit the destructive power of both sides.

The third reason for maintaining the momentum of SALT I is that further agreements could result in significant savings. The strategic weapons portion of the U.S. defense budget now accounts for nearly $8 billion annually, and when personnel, support, and research and development costs are apportioned to this mission, the costs of operating and supporting strategic nuclear forces rises to over $20 billion annually. It would be a mistake to expect that a SALT II agreement would result in immediate and drastic reductions in the budget, but Secretary Laird told Congress in June that the ABM Treaty saved over $1.5 billion in planned defense expenditures. Decisions to limit certain categories of weapons at SALT II could result in similar savings—savings that could be used to modernize U.S. conventional armed forces, to satisfy domestic needs, or to reduce current budget deficits.

Fourth, further agreement at SALT would reinforce the movement towards detente between the two super powers. What happens at SALT affects the whole gamut of U.S.-Soviet relations. As President Nixon has pointed out, the accords reached in Moscow in many respects were interdependent with agreements ratifying expanded technical and economic relations between the two powers. Success at SALT II would not only further curb the arms race, but would contribute to strengthened U.S.-Soviet collaboration on a wide range of fronts. The ramifications of a successful SALT II effort would be felt in almost every area of U.S. concern with the Soviet Union—the Middle East, trade relations, collaboration in space and the maintenance of the Vietnam peace settlement.

Fifth, the lessons learned from further strategic arms control with the Soviet Union could be applied to attempts to limit the arsenals of other nuclear powers—the United Kingdom, France, China and would-be nu-

clear powers such as Japan or India. Salt II could act as a springboard for a wide range of disarmament activities, including mutual balanced force reductions between the NATO and Warsaw pact countries and a comprehensive test ban.

In view of the benefits accruing from a more comprehensive agreement on strategic arms limitation—stabilizing the arms race, realizing significant savings in the defense budget furthering general detente with the Soviet Union—and lessening the threat of nuclear proliferation—it would be folly not to vigorously pursue new understanding at SALT II.

THE STRATEGIC BALANCE

A major obstacle to further arms limitation at SALT II results from the fear in some quarter that the United States came off second best in the first round of SALT. This concern stems from the terms of the Interim Agreement—the accord that limits the number of ICBM's, SLBM's and submarines allowed by each side. It has been argued that in allowing the Soviets a superiority in land-based missiles (1618 to 1054) and submarine-launched missiles, (950 to 710, after both sides retire older ICBM's), the United States has been placed in a position of strategic inferiority. The fact that Soviet missiles generally carry heavier payloads than U.S. missiles is also viewed as a factor that further decreases U.S. security.

These concerns must be carefully examined because they so crucially affect the U.S. bargaining stance at SALT II. In analyzing the relative strategic strengths of the United States and the Soviet Union, however, all the factors affecting the strategic balance must be taken into account.

As stated above, the Interim Agreement does set ceilings on ICBM and SLBM launchers that provide for a superiority in numbers for the Soviet Union:

SALT I LAUNCHER CEILINGS[1]

	United States	Soviet Union
ICBM's	1,054	1,618
SLBM's	656	740
Submarines	41	56
With replacements:[2]		
ICBM's	1,000	1,408
SLBM's	710	950
Submarines	44	62

[1] Figures for the tables in this section are taken from the International Institute of Strategic Studies' "1973 Strategic Balance." The London-based institute is viewed by experts as being a highly accurate and objective source of military statistics.

[2] Both sides can replace older ICBM's with new submarines and SLBM's.

But numbers of ICBM's and SLBM's alone do not provide an accurate overall picture of the strategic balance. The first notable aspect of the Interim Agreement is that it only concerns launchers—numbers of ICBM's, SLBM's and submarines. It does not restrict the modernization of these forces nor warhead technology and the number of warheads allowed by each side—an area where the United States enjoys a clear superiority. In terms of separate targetable reentry vehicles—the number of different nuclear warheads that can be delivered to separate targets—the United States has a two-to-one advantage that will grow as the U.S. continues to deploy MIRV's—separately targetable multiple warheads on its missiles. The United States is currently MIRVing missiles on 31 of the United States' missile-submarines and on all 550 of the Minuteman land-based missiles. The effect of the U.S. MIRV program on the relative balance of deliverable warheads is shown below:

Warhead levels

In 1972:	
United States	4,300
Soviet Union	2,090
In 1977:	
United States	7,700
Soviet Union	2,420

Also not included in the Interim Agreement are long-range strategic bombers, another area where the United States possesses a significant margin of superiority. The United States bomber fleet of B–52's and FB–111's numbers over 450 aircraft. The Soviet Union possesses approximately 150 long-range bomber aircraft, which are generally older and slower than their U.S. counterparts. The U.S. bomber force is also capable of carrying substantially larger weapons loads than the Soviet Union, and as the chart below indicates, this capacity will grow as the United States begins to deploy the SRAM (short-range attack missile) on its bomber force:

Bomber weapons[1]

In 1972:	
United States	2,000
Soviet Union	420

[1] Based on current weapons size and aircraft payload capacity.

In 1977:	
United States	7,500
Soviet Union	420

Another index of strategic power is megatonnage, or the total explosive power that both powers can hurl at each other. The majority of Soviet missiles carry larger payloads than U.S. missiles, while, as indicated above, American bombers carry heavier payloads than their Soviet counterparts. The total nuclear megatonnage capable of being delivered by missiles and bombers combined is roughly the same for both powers:

Total megatonnage

	United States	*Soviet Union*
Missiles	2,400	11,400
Bombers	16,500	3,600
Total	18,900	15,000

It must be emphasized that megatonnage is a crude indicator of power because it does not take into account such factors as missile accuracy and reliability, which in many respects are more important than megatonnage in determining the damage capability of strategic forces.

Other factors must also be considered. The United States, for instance, possesses hundreds of fighter aircraft based in Europe and abroad carriers capable of delivering nuclear weapons on the Soviet Union. Also, although the Interim Agreement allows the Soviet Union more ballistic missile submarines than the United States, a lack of foreign bases means the Soviets are unable to keep as high a proportion of their submarine force within missile range as the United States.

In conclusion, none of the indices discussed give a fully complete description of the strategic balance. Numbers of missiles, bombers or submarines alone cannot provide a sufficient basis for deciding whether or not the United States gained or lost in SALT I. But taken together, the indices do suggest that the United States and the Soviet Union currently possess roughly equal strategic nuclear capabilities—capabilities that make it impossible for either side to disarm the other.

Simple numerical formulas will not suffice for SALT II, for what one side lacks in one area of weaponry, it tends to make up for in another. Recognition of this fact seems essential in approaching future arms control agreements.

THE ISSUES THAT DEFINE SALT II

While the SALT I accords were trailblazing achievements in laying the foundation for President Nixon's "Structure for Peace", the methods and mechanisms for reaching agreements during SALT I should not necessarily be totally relied upon to produce results at SALT II. The "Bargaining Chip" strategy, for instance, of building new weapons in order to force the Soviets into agreeing to their limitation seemed a plausible strategy at a time when the Soviets were engaging in a massive arms buildup. But now that temporary limits have been placed on missile force levels, future agreements should attempt to build on the confidence created by SALT I instead of relying too heavily on the fear created by the threat of new arms deployments.

Because the issues under discussion at SALT II tend to be more complex than those discussed in the first round of the talks, innovative approaches must be considered if substantial agreements are to be reached. At the same time, it is necessary to be realistic when discussing possible achievements of SALT II. Potential areas of agreement should most certainly be analyzed in terms of what the Arms Control and Disarmament Agency calls "negotiability" and "verifiability"—the ability to make an agreement and to enforce it. Possible areas of agreement at SALT II and problems associated with these areas include:

(A) Ceilings on Strategic Weapons—The SALT I Interim Agreement runs out in 1977 and unless the ceilings set on land-based and sea-based missiles are set by a permanent treaty, both sides will thereafter be free to add to their missile forces. It would certainly be in the interest of both countries to negotiate a permanent treaty limiting strategic weapons, particularly if more equal numerical terms could be worked out. The United States would also probably support the idea of cutting back on the mutual levels for ICBM's prescribed by the Interim Agreement and replacing them with the more invulnerable submarine-launched missiles. (It is generally believed that U.S. ICBM's would be vulnerable to MIRVed Soviet SS–9 rockets.) The Soviets, on the other hand, are not as interested as the United States in reducing the ceilings for ICBM's because they possess a generally newer force of missiles.

One way around this problem would be to design a permanent ceiling on strategic weapons—in terms of launcher numbers, warhead numbers or payload capacity—that would allow each side the freedom to determine what weapons it wished to emphasize within its respective forces. Under such a system, a general ceiling would be agreed to, and then each power could determine what proportion of its force would be made up of ICBM's and SLBM's—within the limits set by the ceiling. The Soviets perhaps would be unlikely to agree to a mutual ceiling with the United States, because under the present terms of the Interim Agreement they are allowed greater numbers of ICBM's and SLBM's. This problem could perhaps be solved by including long-range bombers in a mutual ceiling—where the American advantage in bombers would cancel out the Soviet advantage in numbers of ICBM's and SLBM's. Thus, both powers could agree to a similar ceiling and then would unilaterally decide what proportion of their forces would be made up of bombers, missiles and submarines.

(B) Ceiling on Bombers—Whether or not bombers could be included in a general ceiling on strategic weapons, the attempt to include long-range bombers in a SALT II agreement should be made. The United States superiority in bombers could be used as an inducement for the Soviets to accept a more equitable balance in numbers of missiles, or if the Soviets insist on maintaining superior levels of missiles, the American numerical superiority in bombers could be ratified by treaty.

(C) Forward Based System Controls—

While the United States does not consider its forward-based land and carrier-based fighter aircraft to be strategic systems, the Soviets do. And while the Soviet ICBM and SLBM advantage may be a prime U.S. concern at SALT II, the Soviets are said to be most concerned about U.S. fighters stationed abroad that have the capability of striking their homeland with nuclear weapons. Up until now, the United States has not wanted to discuss these weapons in the context of SALT, and for good reasons. Bilateral U.S.-Soviet discussions over the future of European-based aircraft would upset the NATO allies and an agreement to limit U.S. aircraft in Europe might weaken the conventional capability of NATO. But some judicious concessions by the United States on this issue—which included advance consultation with U.S. allies—could bring about greater Soviet acquiesence in other areas of importance to the United States.

(D) Controls on Warhead Modernization—This is an area on strategic weaponry totally neglected during the SALT I that could threaten, as feared earlier with the ABM, to upset the arms race. Recent United States efforts in the area of multiple warheads and improved missile accuracy tend to be destabilizing because they could ultimately give U.S. missiles the capability of destroying Soviet missiles on the ground. While the United States currently enjoys a lead in warhead technology (the Soviets have not tested a MIRV warhead yet), larger Soviet missile payloads mean that once the Soviets do perfect a MIRV system they too will possess a significant kill capability against U.S. missiles.

Controlling warhead modernization is difficult, owing to the difficulty of verifying compliance. One plausible means of controlling improvements in warhead technology is to focus on limiting U.S. and Soviet development programs—primarily testing. While it is impossible, without on-site inspection, to determine the kinds of warheads each side is deploying, a limit on how many missile tests each side could hold would serve nearly the same purpose. A ceiling on the missile tests would prevent both sides from developing sufficient confidence in new warhead devices to warrant wide-scale deployment. And a limit on numbers of missile tests would also have the advantage of being verifiable by satellite surveillance.

(E) Antisubmarine Warfare Controls—The oceans have become the newest arms race arena and submarine-launched missiles are increasingly becoming the primary instruments of strategic deterrence. Both the United States and the Soviet Union are, however, attempting to counteract each other's submarine forces by working on projects of submarine detection, tracking and destruction. Like accurate warheads, antisubmarine warfare (ASW) is destabilizing because a breakthrough in submarine detection and destruction could give one power the capability of destroying the ballistic missile submarine force of the other. There are a number of ways ASW could be controlled at SALT II. Suggestions have been to limit the number of hunter-killer submarines possessed by each side as well as banning certain kinds of underwater listening devices used to detect missile-carrying submarines. Another approach would be to create ocean sanctuaries" for submarines of both sides to operate, free from attempts to locate and destroy them. While there are certain difficulties with all of these proposals, particularly the problem of distinguishing between ASW designed for conventional naval warfare from that designed to combat ballistic missile submarines, controls on ASW should be pursued at SALT II.

GENERAL BARGAINING PRESCRIPTIONS

Although there are a number of political and technical problems attached to the possibilities presented by SALT II, the benefits stemming from potential agreements listed above provide powerful arguments for approaching the negotiations with as great flexibility as security interest permit. While specific agreements and bargaining formulas can only be determined by Administration officials close to the talks, several guidelines can be suggested to maximize the possibilities for success at SALT II. They embody a whole range of national security concerns—weapons system procurement, arms control leadership, and defense budget appropriations by Congress.

I. Technological Restraint—While "negotiating from strength" is a sensible guide to bargaining, too much strength tends to introduce fear and uncertainty into arms control talks. The Soviets, for instance, were unwilling to seriously discuss strategic arms limitation until they possessed a weapons arsenal similar to that of the United States. The tendency of the United States to exploit every technological advance—multiple warheads, improved missile accuracy, ASW devices—to force agreements with the Soviets cannot always be depended upon to produce agreements. The decision to begin the Safeguard ABM program might have contributed to a successful ABM Treaty, but the Soviets had earlier deployed an ABM system of their own. In areas of U.S. technical advantage the decision to MIRV U.S. missiles has made a MIRV agreement difficult to achieve at SALT because the Soviets are unlikely to accept any agreement that permanently places them in a technologically inferior position. This is not to suggest that the United States should not go forward with new research and development programs. Instead, careful consideration should be given to new weapons programs before procurements decisions are made. Deployment decisions over such weapons as the B–1 bomber, the Trident submarine, super-accurate missile warheads and advanced underwater listening devices should be carefully evaluated and in some cases postponement of deployment should be considered pending the outcome of the talks.

An active R&D program is probably as good a bargaining chip as actual force deployments. Maintaining a strong R&D program would not only act as an effective bargaining ploy, but could also result in materials savings in defense expenditures.

II. Strategic Numbers—In view of the complexity of determining the significance of relative strategic force levels, no attempt should be made to tie the hands of U.S. negotiators by insisting on strict formulas of strategic parity. As suggested earlier, a number of factors go into the determination of the United States-Soviet strategic balance. The United States should be willing to accept a numerical disadvantage in certain areas, if a U.S. advantage in other areas is recognized. Better yet, formulas that tie different weapons into overall package ceilings should be discussed at SALT II. Each power would then be able to select the weapons it favored without reference to ceilings on specific weapons categories. In constructing and negotiating such a general ceiling, an attempt should also be made to provide for the gradual reduction of strategic forces possessed by each side.

III. Arms Control Leadership—The SALT I accords were not only a result of hard-headed bargaining, but disciplined and efficient organization—within the Arms Control and Disarmament Agency, the Pentagon, the State Department, the CIA and the White House. A similar management effort should be directed towards SALT II. The Arms Control and Disarmament Agency should again be put in charge of the day-by-day direction of the talks, and the agency should have a budget commensurate with this task. The Administration's FY 1974 budget cuts the ACDA budget by more than one-third and the agency's director, yet to be named, no longer heads the SALT negotiating team.

Possibly more important in the long run, promises of new weapons made by the White House to the services to gain military support for arms control agreements should be restricted. When the Administration earlier linked the continuation of the B–1 and Trident programs with support for the SALT I accords, future arms control possibilities could have been placed in jeopardy.

IV. Other Areas of Arms Control—While the SALT II talks now dominate arms control thinking, there are other areas where initiatives should be attempted. A verifiable Comprehensive Test Ban would, for example, constitute a significant achievement. A total ban on nuclear testing would not only eliminate certain environmental dangers, but would act as a check on new weapons development. Efforts to curb nuclear proliferation—a growing problem that has generally been ignored—is also an area where initiatives are necessary. An agreement by both the United States and the Soviet Union on conventional force reductions in Europe (MBFR) is another arms control goal that should be vigorously pursued.

V. Congressional Initiatives—Congress has traditionally supported arms control and disarmament objectives. Congressional hearings in the late 1950's were partly responsible for the establishment of the Arms Control and Disarmament Agency and Congress has supported, with few reservations, the Limited Test Ban Treaty and the Nonproliferation Treaty, as well as the SALT I accords. Congress could play a larger role in this crucial area by both fostering a wider discussion of arms control issues and more closely examining the political and technological components of the arms race, thus honoring its responsibility to educate the public in this difficult area. Arms control, however, does not take place in a vacuum—to a great extent it is dependent upon the President's conduct of foreign policy and even more importantly, upon defense spending. Congress, then, must make a determined effort to link arms control issues to the defense budget. Congressional committees concerned with defense spending should not only focus on fiscal and military issues, but these groups should also examine the implications of new programs for the prospects of future agreement at SALT II.

SALT II has become a complex arena for discussion, where the political, strategic and technological factors involved demand a high degree of specialized talent. While recognizing that the Executive possesses the bulk of expertise in this area, Congress does possess analytical capabilities—in the form of committee staffs, the Congressional Research Service, the General Accounting Office and the newly organized Office of Technology Assessment. Each of these groups can provide some of the expertise necessary to deal wisely and carefully with the complexities of strategic arms limitation.

In view of the constructive role Congress can and should play in examination of arms control issues, the following recommendations are made:

(a) Joint panels of the House Armed Services and Foreign Affairs Committees, and the Senate Armed Services and Foreign Relations Committees, should be convened to examine the implications of the fiscal 1974–1979 defense program for future arms control agreements.

(B) The House Science and Astronautics Committee, the Senate Aeronautical and Space Sciences Committee and the Joint Atomic Energy Committee should hold hearings on the effect of new technologies

on the arms race and the prospects of negotiating and verifying agreements limiting strategic force modernization. A report by the Office of Technology Assessment could be used as the focal point of these investigations.

(C) The General Accounting Office should provide Congress with a study of possible savings accruing from potential SALT II agreements. Such a report could be used in Defense Appropriations Subcommittee hearings in both houses on the impact of SALT II savings on defense spending.

(D) Proposals to enhance congressional cognizance of the long-term implications of the defense budget, such as basing congressional authorization and appropriations on the five year defense program, should be considered by the Armed Services committee and the Defense Appropriation Subcommittees.

POSTCARD REGISTRATION S. 352

Mr. BROCK. Mr. President, I wish to commend the distinguished senior Senator from Wyoming (Mr. McGEE) for the conduct and usefulness of the recent hearings over which he has presided in the Committee on Post Office and Civil Service. The hearings have centered on expediting and simplifying registration for Federal elections via a postcard format. I am particularly pleased to endorse the practical approach espoused in S. 352 which has been introduced by Senator McGEE.

NOT A PANACEA

S. 352 should not be approached as a panacea for voter apathy. Yet, one could concede that at least some of the voter apathy of many of our Nation's citizens begins with and can be attributed to both difficulty in reaching a registration point and complexity of registration procedures. It is easy to support the bill if one acts upon the assumption that voting is a right and a duty of all Americans. At the same time, there is nothing in the Constitution that says it is the duty of the Federal Government or any other governmental body to make voter registration a task, both in preparation and deed, akin to climbing Mount Everest.

SCOPE OF THE PEOPLE

As others favoring the passage of this bill have pointed out, ours is the only country in the world that puts the onus of registration on the citizen. A most shocking manifestation of this dubious fact as evidenced in our last presidential election is the 44,142,000 voting age citizens who were not registered. This is a sum of people nearly equal to the population of the British Isles, which incidentally have election turnouts averaging around 80 percent—(not even the best in Western Europe, but considerably higher than our 54.5 percent of the voting age ballots cast in the 1972 presidential election. In my home State of Tennessee, I am sorry to say, we had a drop from 53.4 percent participation of the voting age population in the 1968 presidential election to 44.3 percent participation in the 1972 presidential election. This is more than a 9-percent drop. The increase in unregistered but otherwise eligible voters for the same period of time was nearly 5 percent.

WHO WILL BENEFIT

Who will this legislation most benefit? My answer is that it will benefit those people who would like to vote and are eligible to vote by age and citizenship, but are otherwise ineligible to vote because they are not registered for a myriad of reasons. Voting should not be a privilege for only those able to get to a registrar's office, no matter how far from their homes or by what means it is accessible to them. Voting should not be a privilege for only those whose time in a work-a-day—and night—schedule makes them readily available in conjunction with the operating hours of local registration programs and procedure. The rights, responsibilities, and obligations of the unregistered but otherwise eligible voters are just as important and just as affected by the outcome of our electoral process as those who do vote. However, their enthusiasm for and allegiance to the system that puts the office holders in office and legislates the laws of the land can be diminished by their lack of participation. Here are some statistics—with sources noted—regarding how unregistered voters would have voted in past elections and who the unregistered voters are:

Gallup Poll, August 6, 1971

[Percent]

If 42 percent of new voters vote:	
Nixon	35
Muskie	48
Nixon	38
Humphrey	42
Nixon	40
Lindsay	40
If 100 percent of new voters vote:	
Nixon	39
Muskie	38
Nixon	39
Humphrey	37
Nixon	41
Lindsay	33

How would unregistered 18 to 23 year-olds vote?—Gallup, Poll, August 19, 1972:

[In percent]

Unregistered:	
Nixon	46
McGovern	43
Undecided	11
Registered:	
Nixon	41
McGovern	57
Undecided	2

How would the nonvoter have voted?—"The American Voter," 1964:

[In percent]

In 1948 would have voted:	
Democratic	82
Republican	18
In 1952 would have voted:	
Democratic	52
Republican	18
In 1956 would have voted:	
Democratic	28
Republican	72

Nonvoters are not just poor and/or black (Gallup):

26% of whites unregistered.

26% college educated unregistered.

29% white collar workers unregistered.

Straight party vote—a thing of the past: 1968—27% identified themselves as Republican, 43% voted for Nixon (Gallup Poll).

The independents today comprise more than 30% of registered electorate.

Gallup poll—voter registration:

Question: "Is your name now recorded in the registration book of the precinct or election district where you now live?"

[In percent]

National	May 1971 Yes	No	Don't know
National	72	26	2
Sex:			
Men	73	25	2
Women	70	28	2
Race:			
White	72	26	2
Nonwhite	70	28	2
Education:			
College	72	26	2
High School	71	28	1
Grade school	74	24	2
Occupation:			
Professional	79	20	1
White collar	70	29	1
Farmers	80	18	2
Manual	65	33	2
Age:			
18 to 20 years	7	91	2
21 to 29 years	50	48	2
30 to 49 years	79	20	1
50 and over	86	13	1
Religion:			
Protestant	72	26	2
Catholic	72	27	1
Jewish			
Politics:			
Republican	79	19	2
Democrat	75	24	1
Independent	63	35	2
Region:			
East	75	24	1
Midwest	79	19	2
South	69	30	1
West	60	37	3
Income:			
$15,000 and over	83	16	1
$10,000 to $14,000	74	24	2
$7,000 to $9,999	71	28	1
$5,000 to $6,999	65	33	2
$3,000 to $4,999	67	31	2
Under $3,000	69	29	2
Community size:			
1,000,000 and over	69	28	3
500,000 to 999,999	71	27	2
50,000 to 499,999	70	29	1
2,500 to 49,999	72	27	1
Under 2,500, rural	75	24	1

OUTLINE OF THE BILL

I. The bill would enable qualified electors to register to vote in Federal Elections via postcard voter registration form.

A. Postcard registration forms containing the appropriate state law registration requirements would be delivered to postal patrons 45 days before the close of state voter registration.

B. Qualified voters would mail postcard registration forms to state or local election officials who would continue to control the registration process.

C. State and local election officials would receive from the Federal Voter Registration Administration 100 percent of the cost of processing the cards.

D. Postcard voter registration forms would also be available in ample quantities in post offices and appropriate state, federal, and local government offices.

II. The bill would give a financial incentive for the states to adopt the postcard registration system for state and local elections. If adopted, the Federal Voter Registration Administration would pay 100 percent of the cost of processing the cards plus an incentive of 30 percent of that cost of processing if the state government will adopt the postcard format for state and local elections.

A. This incentive payment would provide local election officials with financial assistance needed to cope with present registration burdens.

III. The bill would strengthen anti-fraud efforts.

A. Federal assistance would be available to state or local officials for fraud prevention.

B. Authorizes action by the Attorney General against the registration of Individuals not qualified.

C. Provides criminal penalties for violations.

IV. The bill would create a federal admin-

istration to collect, analyze, and publish information concerning elections and to provide assistance to state and local officials concerning the postcard registration system. A highlight of the bill is that it allows for streamlining the registration procedure without altering state or local standards and criteria for eligibility. The implementation and management of registration process would be carried out on the local level.

A STEP IN THE RIGHT DIRECTION

Mr. President, I recognize that the bill is not perfect; yet I suppose no bill can completely satisfy everyone. However, it is a good start in the right direction.

I will be introducing an amendment guaranteeing the individual privacy of every voter by prohibiting any disclosure of lists or individual names from data kept on file by the National Voter Administration. My amendment will allow only statistical data to be made public.

I also plan to incorporate into the bill a statement regulating the format of the postcard to prevent dual registration. The amendment would mandate that a question the same as or similar to and with the same intent as the following statement would be answered on the postcard. The statement would read:

In the past 4 years have you been previously registered in a place other than where you are now living? Yes or no, and if yes, where?

In order for the card to be accepted as valid registration the question would have to be answered. A penalty would be enforced for perjury on the question.

It is a pleasure to join the Senator from Wyoming as a sponsor of this bill. I believe S. 352 should be construed as "people" legislation not partisan legislation. Increased voter participation will most benefit the party which can best represent the will of the people. Needless to say, I have my own idea as to which party performs this duty best. I urge Senators on both sides of the aisle to take speedy action so that we may hear the will of more of the people in our Nation.

FINANCIAL HOLDINGS OF SENATOR WILLIAM PROXMIRE

Mr. PROXMIRE. Mr. President, in 1963, 1965, 1967, 1970, and May of 1972, I submitted for the record the history of my financial holdings from the time I was first elected to the Senate in August of 1957 until May of 1972. In order to bring the full record up to date, I submit herewith the history of my financial holdings since May of 1972. There has been no substantial change in the general makeup of my assets. The bulk of my assets are still in U.S. Treasury bonds and notes, as they have been since late 1963. The value of these holdings is about $61,000. In addition, I now have $35,000 in State and municipal bonds.

My other assets include ownership of two homes and furnishings in Washington, D.C., on which I owe substantial mortgages to the Perpetual Building Association of Washington, D.C.; ownership of my home and furnishings in Madison, Wis., on which I owe a mortgage to the Credit Union National Association in Madison, Wis., and from which home I have received $200 per month in rent during the last year; ownership of one 1970 automobile and one 1972 automobile, ownership of two checking accounts in Washington banks, one checking account in a Madison bank and one savings account in a Madison bank, for tax purposes, with a combined balance of $3,500.

I also have an outstanding collateral loan with the National Savings and Trust Co. here in Washington.

Trust custody of stock in my children's names have been turned over to them directly as they are over 21.

I estimate my present net worth to be about $182,000. The increase in my net worth as compared to my 1972 report is a result of changed assessment by tax assessors in the value of the two houses I own in Washington, D.C., and the home I own in Madison, Wis. Without this change in assessments, my net worth would have decreased about $2,000 between 1972 and 1973.

To the best of my knowledge, this is an accurate record of my financial holdings and obligation.

In addition, I herewith submit a balance sheet showing my net worth and how it was arrived at, a copy of my 1972 Federal tax return and a list of all honoraria received during 1972 in the amount of $300 or more. Additional income was received from book royalties and advance, newspaper and magazine articles and a series of speeches for the Brookings Institution here in Washington for which I receive $150 per speech.

I ask unanimous consent that the balance sheet, copy of 1972 Federal tax return, and list of all honoraria received in 1972 in amount of $300 or more be printed in the RECORD.

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

Net worth of Senator William Proxmire as of March 1973

Treasury bonds and notes	$61,000.00
Municipals and State bonds	35,000.00
1972 Vega (Blue Book trade-in value March 1973)	1,525.00
1970 Mustang (Blue Book trade-in value March 1973)	1,350.00
3 checking and 1 savings account:	
Education account-checking	427.65
Madison account-checking	2,691.60
Madison tax-savings	389.07
Book account-checking	80.55
Total	3,588.87
4613 Buckeye Road, Madison:	
Assessed value	23,300.00
Market value (May 1972 $35,200)	35,900.00
Mortgage balance	1,050.28
Total	34,849.18
3220 Ordway St., NW., Washington, D.C.:	
Assessed value	$39,000.00
Market value fiscal 1974 (May 1972 $55,000)	60,000.00
Mortgage balance	44,009.38
Total	15,990.62
3025 Ordway St., NW., Washington, D.C.:	
Assessed value	$40,800.00
Market value fiscal 1974 (May 1972 $58,000)	63,000.00
Mortgage balance	9,273.84
Total	53,726.16
Total worth	207,029.83
Balance collateral loan	−25,185.32
Net worth	181,844.51

FORM 1040—U.S. INDIVIDUAL TAX RETURN—1972

First name and initial: William and Ellen H.

Last name: Proxmire.

Present home address: 4613 East Buckeye Road, Madison, Wis. 53716.

Your social security number (Husband's, if joint return): [redacted].

Wife's number, if joint return: [redacted].

Occupation: Yours, U.S. Senator; Wife's, corp. exec.

Filing Status: Married, filing joint return.

Exemptions: 2.

First names of your dependent children who lived with you: Elsie, Douglas, Mary E.: 3.

Total exemptions claimed: 5.

INCOME

Wages, salaries, tips, and other employee compensation (see statement 1): $47,100.

Interest income: $3,391.

Income other than wages, dividends, and interest: $19,707.

Total: $70,198.

Adjustments to income (such as "sick pay," moving expenses, etc.): $3,555.

Adjusted gross income: $66,643.

TAX, PAYMENTS AND CREDITS

Tax Rate Schedule X, Y, or Z: $15,177.

Income tax: $15,177.

Other taxes: $675.

Total: $15,852.

Total Federal income tax withheld: $14,990.

1972 estimated tax payments (include amount allowed as credit from 1971 return): $2,380.

Total: $17,370.

BALANCE DUE OR REFUND

Amount overpaid: $1,518.

Refunded to you: $654.

To be credited on 1973 estimated tax: $864.

Did you, at any time during the taxable year, have any interest in or signature or other authority over a bank, securities, or other financial account in a foreign country (except in a U.S. military banking facility operated by a U.S. financial institution? No.

Principal place of residence at end of year (not necessarily the same as your post office address):

Blooming Grove, Wis., Dane County.

PART I.—INCOME OTHER THAN WAGES, DIVIDENDS, AND INTEREST

Business income (or loss) (attach Schedule C): $19,001.

Net gain (or loss) from sale or exchange of capital assets (attach Schedule D): $329.

Pensions and annuities, rents and royalties, partnerships, estates or trusts, etc. (attach Schedule E): $468.

State income tax refunds: $567.

Total: $19,707.

PART II.—ADJUSTMENTS TO INCOME

Employee business expense (attach Form 2106 or other statement). (See statement 4): $3,555.

PART III.—TAX COMPUTATION

Adjusted gross income: $66,643.

Itemized deductions: $16,659.

Subtract line 52 from line 51: $49,984.

Multiply total number of exemptions claimed on line 10, by $750: $3,750.

Taxable income. Subtract line 54 from line 53: $46,234.

(Figure your tax on the amount on line 55 by using Tax Rate Schedule X, Y or Z, or if applicable, the alternative tax from Schedule D, income averaging from Schedule G, or maximum tax from Form 4726.) Enter tax on line 18.

PART V.—OTHER TAXES

Self-employment tax (attach Schedule SE): $675.

Total (add lines 62, 63, 64, 65, and 66). Enter here and on line 21: $675.

SCHEDULES A&B—ITEMIZED DEDUCTIONS AND DIVIDEND AND INTEREST INCOME: 1972

SCHEDULE A—ITEMIZED DEDUCTIONS

Medical and dental expenses

Medical and dental expenses (not compensated by insurance or otherwise) for medicine and drugs, doctors, dentists, nurses, hospital care, insurance premiums for medical care, etc.

One half (but not more than $150) of insurance premiums for medical care. (Be sure to include in line 10 below): $150.

Subtract line 3 from line 2. Enter difference (if less than zero, enter zero): 0.

Enter balance of insurance premiums for medical care not entered on line 1: $239.

Itemize other medical and dental expenses. Include hearing aids, dentures, eyeglasses, transportation, etc.:

Dr. Cameron, $2,758.
Dr. Reed, $13.
Mayflower Optical, $38.
G. W. Clinic, $12.
Montgomery General Hospital, $176.
Dr. Goldstein, $132.
Dr. Cardeney, $7.
Dr. Harris, $10.
Alexandria Hospital, $37.
Dr. M. Heller, $30.
Dr. C. Scalesse, $17.
Dr. W. Cooper, $22.
Georgetown Hospital, $40.
Sibley Hospital, $43.

Total (add lines 4, 5, and 6): $3,574.

Enter 3% of line 17, Form 1040: $1,999.

Subtract line 8 from line 7. Enter difference (if less than zero, enter zero): $1,575.

Total deductible medical and dental expenses (Add lines 1 and 9. Enter here and on line 33, below): $1,725.

Taxes

Real estate: $2,061.

State and local gasoline (see gas tax tables): $90.

General sales (see sales tax tables): $405.

State and local income: $4,477.

Sales tax, auto: $81.

Total taxes (Add lines 11 through 16. Enter here and on line 34, below.): $7,114.

Contributions

Cash—including checks, money orders, etc. (Itemize—see instructions on page 11 for examples.)

See Statement 5: $314.

Total cash contributions: $314.

Total contributions (Add lines 18, 19, and 20. Enter here and on line 35, below.): $314.

Interest expense

Home mortgage: $3,621.

National Saving and Trust, $1,663.

Total interest expense (Add lines 22, 23 and 24. Enter here and on line 36, below.): $5,284.

Casualty or theft loss(es)

See instructions on page 12. NOTE: If you had more than one casualty or theft loss occurrence, OMIT lines 26 through 29 and see page 12 of the instructions for guidance.

$100 limitation: $100.

Miscellaneous deductions for allmony, union dues, etc. (see instructions on page 13).

See statement 6: $2,122.

Political contributions: $100.

Total miscellaneous deductions (Enter here and on line 39, below.): $2,222.

SUMMARY OF ITEMIZED DEDUCTIONS

Total deductible medical and dental expenses (from line 10): $1,725.

Total taxes (from line 17): $7,114.

Total contributions (from line 21): $314.

Total interest expense (from line 25), $5,284.

Total itemized deductions. (Add lines 33 through 39. Enter here and on Form 1040, line 52.): $16,659.

SCHEDULE B—DIVIDEND AND INTEREST INCOME

Interest Income

Note: If interest is $200 or less, do not complete this part. But enter amount of interest received on Form 1040, line 13.

Interest includes earnings from savings and loan associations, mutual savings banks, cooperative banks, and credit unions as well as interest on bank deposits, bonds, tax refunds, etc. Interest also includes original issue discount on bonds and other evidences of indebtedness (see instructions on page 13). (List payers and amounts).

(H) Interstate, $122.

(H) U.S. bonds and notes, $2,932.

(H) U.S. Treasury notes and bonds sold, $166.

(H) United Bank and Trust, $171.

Total interest income. Enter here and on Form 1040, line 13: $3,391.

Note: If you received capital gain distributions and do not need Schedule D to report any other gains or losses or to compute the alternative tax, do not file that schedule. Instead, enter 50 percent of capital gain distributions on Form 1040, line 41.

PROFIT (OR LOSS) FROM BUSINESS OR PROFESSION (SOLE PROPRIETORSHIP) 1972

Principal business activity: Speaking and writing.

Business name: William Proxmire.

Business address (number and street): U.S. Senate.

City, State and ZIP code: Washington, D.C.

Indicate method of accounting: Cash.

Were you required to file Form 1096 for 1972? (See Schedule C Instructions): No.

Did you own this business at the end of 1972? Yes.

How many months in 1972 did you own this business? 12.

Was an Employer's Quarterly Federal Tax Return, Form 941, filed for this business for any quarter in 1972? No.

Gross receipts or sales $20,144. Balance: $20,144.

Gross profit: $20,144.

Total income (ad lines 3 and 4): $20,144.

Other business expenses (specify): Travel expense, $1,143.

Total other business expenses (add lines 19(a) through 19(o)): $1,143.

Total deductions (add lines 6 through 19): $1,143.

Net profit (or loss) (subtract line 20 from line 5). Enter here and on line 35, Form 1040. ALSO enter on Schedule SE, line 1: $19,001.

SCHEDULE C-4. EXPENSE ACCOUNT INFORMATION

Did you claim a deduction for expenses connected with:

Entertainment facility (boat, resort, ranch, etc.)? No.

Living accommodations (except employees on business)? No.

Employees' families at conventions or meetings? No.

Employee or family vacations not reported on Form W-2? No.

CAPITAL GAINS AND LOSSES

Sale of Treasury notes and bonds, 1972, cost, $18,208; sale price, $18,865; loss, minus $657.

Net gain (or loss), combine lines 6 through 10: minus $657.

Net long-term gain (or loss), combine lines 11, 12(a) and 12(b): minus $657.

SUMMARY OF PARTS I AND II

Combine the amounts shown on lines 5 and 13, and enter the net gain or loss here: minus $657.

Enter one of the following amounts: If amounts on line 5 and line 13 are net losses, enter amount on line 5 added to 50% of amount on line 13: $329.

Enter here and enter as a (loss) on line 36, Form 1040, the smaller amount of: Taxable income, as adjusted (see Instruction L): $329.

SCHEDULES E&R—SUPPLEMENTAL INCOME SCHEDULE AND RETIREMENT INCOME CREDIT COMPUTATION

Your [redacted] xxx-xx-xxxx.

Name(s) as shown on Form 1040: William and Ellen H. Proxmire.

Schedule E—Supplemental Income Schedule

Part II: Rent and Royalty Income. Report rents and royalties here. If you need more space, you may use Form 4831.

See statement 3.

Percentage ownership or occupancy, $468.

Net income (or less) from rents and royalties (column (b) plus column (c) less columns (d) and (e)), $468.

Total of parts I, II, and III (Enter here and on Form 1040, line 38), $468.

Schedule for Depreciation Claimed in Part II Above.

See statement 3, depreciation, $1,482.

Totals, cost, 61,615; depreciation, $1,482.

Summary of Depreciation (Other Than Additional First Year Depreciation).

Other:

Straight line, $872.

Declining balance, $610.

Total, $1,482.

COMPUTATION OF SOCIAL SECURITY SELF-EMPLOYMENT TAX

Name of self-employed person (as shown on social security card): William Proxmire.

Social security number of self-employed person: [redacted] xxx-xx-xxxx.

Business activities subject to self-employment tax: Speaking and writing.

Part I: Computation of Net Earnings from business Self-Employment (other than farming).

Net profit (or loss) shown in Schedule C (Form 1040), line 21. (Enter combined amount if more than one business), $19,001.

Net earnings (or loss) from business self-employment (Subtract line 2 from line 1, and enter here and on line 8(a), below), $19,001.

Part III: Computation of Social Security Self-Employment Tax.

Net earnings (or loss) from self-employment—

From business (other than farming) from line 3, above, $19,001.

Total net earnings (or loss) from self-employment reported on line 8, $19,001.

The largest amount of combined wages and self-employment earnings subject to social security tax for 1972 is $9,000.

Balance (subtract line 11(c) from line 10), 9,000.

Self-employment income—line 9 or 12, whichever is smaller, $9,000.

If line 13 is $9,000, enter $675.00; if less, multiply the amount on line 13 by .075, 675.

Self-employment tax (subtract line 15 from line 14). Enter here and on Form 1040, line 62, 675.

PROXMIRE—1972 FEDERAL INCOME TAX STATEMENTS

STATEMENT 1—WAGES

	FICA	Including tax withheld	Wages, etc.
Employer's name and address:			
(H) U.S. Senate, Washington, D.C.		$14,389	$42,500
(W) Washington Whirl-Around	$239	601	4,600
Total	**239	**14,990	**47,100

STATEMENT 2—LONG- AND SHORT-TERM CAPITAL GAINS AND LOSSES

	Date acquired	Date sold	Sales price	Cost or other basis	Gain or loss Short term	Gain or loss Long term
Total capital gains or losses					**0	**—$657

STATEMENT 3—RENT AND ROYALTY INCOME

(H) Property (1): Residence, Madison, Wis.: Gross rents	*$2,400
Expenses:	
Depreciation	785
Repairs—Appliances	104
Repairs—Miscellaneous	6
Interest	105
Legal and accounting	121
Taxes—Property	394
Total expenses	*1,515
Net income	**885

DEPRECIATION

Description	Date acquired	Cost or other basis	Accumulated depreciation	Depreciation method	Life Years	Life Percent	Depreciation this year
House	1958	$30,565	$10,220	150DB	50		$610
Improvements	July 1, 1964	1,750	1,298	SL	10		175
Furniture	Dec. 1, 1964	800	800	SL	5		0
Total							*785
(W) Property (2): Sea Pines Plantation, Hilton Head Island, SC: Gross rents							*$1,600
Expenses:							
Depreciation							697
Insurance							53
Interest							828
Management fees							385
Miscellaneous expense							50
Loan expense							421
Total expenses							*2,434
Net loss							*—834
Percent of ownership, 50							
Net deductible loss							**—417
Building	July 1, 1972	25,300		SL	25		506
Appliances	do	1,150		SL	10		58
Carpeting	do	600		SL	5		60
Heat and air-condition	do	1,450		SL	10		73
Total							*697
Recapitulation of rent and royalty income:							
Property (1)							885
Property (2)							—417
Net income from rents and royalties							**468

STATEMENT 4—BUSINESS EXPENSE

Travel expense away from home:	
Lodging, meals, and tips	$791
Transportation	2,596
Living expense, District of Columbia	3,000
Total	*6,387
Total business expense	*6,387
Less reimbursements	—2,832
Total	**3,555

STATEMENT 5—CASH CONTRIBUTIONS

Description	Date acquired	Cost or other basis	Accumulated depreciation	Depreciation method	Life Years	Life Percent	Depreciation this year
Charities qualifying for 50-percent limitation:							
Landon School							$210
Children's Hospital							12
Yale							20
Cathedral Choral							12
Indonesian Women Association							25
Americans for Children's Relief							35
Total cash contributions to charities qualifying for 50-percent limitation							*314
Total cash contributions							**314

STATEMENT 6—ITEMIZED MISCELLANEOUS DEDUCTIONS

Tax preparation fees	$940
Safe deposit box	37
Investment expense	
Total miscellaneous deductions	**977
Employee business expense	**977
Other business expense:	
Dues and subscriptions	167
Entertainment	123
Broadcasts	761
Photos	94
Total business expense	*1, 145
Miscellaneous other deductions	**2, 122

PRESIDENTIAL ELECTION CAMPAIGN FUND STATEMENT

Name(s) as shown on your return: William and Ellen H. Proxmire.

Your [redacted] xxx-xx-xxxx.

This form may be used to designate that $1 of your income tax paid over to the 1976 Presidential Election Campaign Fund. Your wife (husband) may designate an additional $1 if you are filing a joint return. Participation will not result in any cost to you, but you may not participate unless the amount on line 21 of Form 1040A or line 23 of Form 1040 is at least as great as the $1 (or $2) designated.

If you wish $1 to be paid over to the candidates of a specific political party, check the first box and fill in the name of the political party. If you wish $1 to be paid over to a non-partisan general account for all eligible candidates, check the second box.

Your choice:
Democratic Party.
Your signature: William Proxmire.
Date: 3/14/73.
Wife's (husband's) choice:
Democratic Party.
Wife's (husband's) signature (if filing jointly and both are participating): Ellen H. Proxmire.
Date: 3/14/73.

I hereby certify that I was in a travel status in the Washington area, away from home, in the performance of my official duties as a Member of Congress, for 310 days during the taxable year, and my deductible living expenses while in such travel status amounted to not less than $3,000.00.

WILLIAM PROXMIRE.

HONORARIUMS

List each honorarium of $300 or more received by you during the preceding calendar year. Do not list reimbursements of expenses. If none, write none:

Date, payer, description of service, and amount or value

1/18. Associated Merchandising Corporation, New York, speech, $1500.00.
1/15, Scrap Iron Institute, Washington, D.C., speech, $850.00.
2/3, Common Cause, Westchester County, N.Y., speech, $1000.00.
2/25, American Association of Colleges for Teacher Ed., Chicago, speech, $1050.00.
3/19, Israel Bonds, Cleveland, speech, $1000.00.
4/3, Va. Tech. Corps of Eng. Symposium, VMI, Blacksburg Virginia, speech, $500.00.
3/13, Public Affairs Council, Washington, D.C., speech, $300.00.
4/22, Puerto Rico Dev. Assoc., Puerto Rico, speech, $1000.00.
4/25, University of Rhode Island, Rhode Island, speech, $750.00.
4/10, New York University, N.Y., speech, $750.00.
4/19, Int. Water Quality Symposium, Washington, D.C., speech, $500.00.
5/12, Allied Educational Foundation, New York, speech, $1250.00.
4/8, United Presbyterian Board Conference, Washington, D.C., speech, $500.00.
5/26, Chicago Council on Foreign Relations, Chicago, speech, $1000.00.
6/13, SANE, Philadelphia, speech, $500.00.
7/31, National Nutritional Food Assn., Washington, D.C., speech $500.00.
10/24, University of North Carolina, Chapel Hill, N.C., speech, $1000.00.
11/29, Washington University, St, Louis, Missouri, speech, $800.00.
11/30, University of Pennsylvania, Philadelphia, Pennsylvania, speech, $1000.00.
11/16, University of Michigan, Ann Arbor, Michigan, speech, $1500.00.

PORTRAIT OF HENRY KISSINGER

Mr. McGOVERN. Mr. President, yesterday's Washington Star carries an interesting article by Mr. Henry Brandon, chief American correspondent and associate editor of the London Times, which brilliantly describes the role of Presidential adviser Henry Kissinger.

At various times I have strenuously disagreed with the foreign policy initiatives of the Nixon administration—especially with reference to Indochina. But I also recognize that the present administration has taken important, constructive new peace initiatives that have improved relations with China and Russia. Mr. Brandon makes clear that Mr. Kissinger has brilliantly served the President and the Nation in the formation of policy in these essential areas.

I ask unanimous consent that Mr. Brandon's article entitled "The Second Most Powerful Man in the World: Henry Kissinger," be printed at this point in the RECORD.

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

THE SECOND MOST POWERFUL MAN IN THE WORLD: HENRY KISSINGER

(By Henry Brandon)

Never before in American history have the intellectual and conceptual views of the world of one man, who was neither in an elected position nor a member of the Cabinet, influenced American policy as have those of Dr. Henry Kissinger. Many of the individual ideas and essential decisions that gave Richard Nixon's foreign policy its special flavor certainly were the President's own—he stayed in the driver's seat. But one only needs to examine the prolific writings of the former Harvard professor to realize how much Mr. Nixon's views happened to coincide with Kissinger's and to what extent these two saw the world from a similar vantage point. It became an unusual collaboration between a man who got where he was thanks to the strength of his willpower, and another whose constant preoccupation had been an intellectual approach to the concept that was to be at the root of American foreign policy at this critical turning point of history.

The nation held no particular expectation of Nixon when he moved into the White House. It looked to him, as it looked to other uncharismatic Presidents, to set a path to "normalcy," to lower the temperature, to bring chaos into order. In the nature of things such a course ought to mean that there would be few surprises. There was no reason to expect the creative innovations of Nixon's foreign policy when he appointed, first, William Rogers as Secretary of State, and second, Dr. Henry Kissinger as national Security Adviser.

What was notable about the Rogers appointment was his lack of experience in foreign affairs. The President looked on the State Department bureaucracy as an incorrigibly lethargic snail protected by a thick shell of tradition, incapable of creative ideas or firm action. It was therefore assumed that Rogers had been given something of a trustee role rather than a policy-making position. His appointment got a generally good press because he had a reputation as a decent and honest man, with a lawyer's experience of negotiation and a record of reasonableness rather than political partisanship. Gradually,

however, the State Department learned that his appointment and that of Henry Kissinger's added up to a neatly calculated equation.

Rogers was to ensure that this bland, fickle, indecisive giant did not, as Nixon suspected it would like to, play mischievous games with him, trip him up, embarrass him or ruin his initiatives by the slowness of its procedural habits.

Kissinger, who shared the President's prejudices about the State Department's bureaucracy, was to become on the other hand the idea man, the policy taster, the man in charge of the fuse box in the White House that could short-circuit the entire bureaucracy, even the Cabinet. What no one saw at first, though, was that he would quickly become the President's closest confidant, his principal negotiator, his troubleshooter, his First Minister, overshadowing members of the Cabinet—would become, in fact, as columnist Joseph Kraft put it, no less than the second most powerful man in the world.

Nixon shrewdly recognized that Kissinger would not only be an asset to him as the only recognized and respected intellectual in his presidential environment, but that he would also provide him with the kind of raw and finished material and the concepts policies are made of. "Lawyers," Kissinger once wrote (and Nixon was a lawyer), "at least in the Anglo-Saxon tradition, prefer to deal with actual rather than with hypothetical cases; they have little confidence in the possibility of stating a future issue abstractly. But planning by its very nature is hypothetical. Its success depends precisely on the ability to transcend the existing framework." Kissinger obviously saw himself as the chosen instrument that would compensate for these weaknesses inherent in lawyers.

Nixon also knew Kissinger's writings, which told him that they held a shared view about how the United States should deal with the Russians and the Chinese—not as ideological powers, but on the basis of a mutual interest with which no middle power should be allowed to interfere. They also shared the conviction that negotiations with Communist powers must be conducted on a strictly *quid-pro-quo* basis.

They shared a conspiratorial mind, a penchant for secret diplomacy and the *coup de theatre*. To such an approach to diplomacy, bureaucrats can be a positive hindrance; an "eyes only" top secret document, for instance, which has the smallest distribution, nevertheless is circulated in sixty copies; this obviously makes it difficult to ensure its secrecy. Sudden action goes against the bureaucratic outlook and tradition, which are much more based on the idea that if you are willing to wait long enough the problem will disappear. If Nixon meant to pursue a foreign policy punctuated by threats and acts of surprise, he could not do so through a Secretary of State who, because of his own limited experience in foreign affairs, was dependent on the multiple advice of the State Department machinery. Secretary Rogers' function, as it evolved, was not the development or the conduct of foreign policy, but the protection of the President from the self-assertions of the bureaucracy. He needed Kissinger to enable him to act freely in establishing and effecting his own new policies. "Bureaucracy," Kissinger once wrote, "considers originality as unsafe."

All this explains why Nixon and Kissinger, to satisfy their basic instincts as well as their own convictions, preferred to conduct foreign policy by stealth. Kissinger, particularly, in his 19th century outlook of "the public be damned" ideally would prefer to conduct policy out of sight of the public, of Congress, of the bureaucracy, but he has become enough of a realist to know that he has to accept compromises and does. He is in fact very good at public justification of policies and at discussing them with their critics.

Nixon, though accepting the need for accountability and despite his schooling in the world of politics, also prefers to play his hand close to his chest. This affinity of view explains how Kissinger came so much to care for the President and became his loyal, most personal, most dedicated servant rather than, as one cynical comment put it, his Rasputin. A psychological bond developed between the two, some of Kissinger's academic colleagues believe, for both men saw themselves as social outsiders, tolerated rather than accepted by the ruling class.

They are also both loners, and in a theatrical sense, tragic figures who have achieved more than they ever expected, and yet lack the contentment and happiness it ought to bring. Neither can come close to anyone for fear of being unable to meet the demands of friendship or intimacy. They hold enormous power in their hands, but they remain in isolation. Both suffer from insecurities and feel the need of reassurance, but both have gained confidence from the use of power. Kissinger has been accused of displaying an arrogance of power, but if anything his fault is an arrogance of intellect which makes him believe that he can control and manage reality. This also leads him, if the facts do not vindicate his theories, to believe that the facts are wrong. His insecurities also develop from a sense of being disliked, of being surrounded by enemies, or of losing support among those he cares about, and from attacks in newspapers which tend to upset him as much as they do other public personalities. His most obvious insecurities, however, are his total dependence on getting his ideas accepted and his need for protection from his adversaries, of which he has as many as most *eminences grises* did in history.

Kissinger's disinterest in political or party power gave, no doubt, an important advantage in his relations with the President. He is interested more in order, stability, predictability and in a world in which people agree on the rules of the game rather than in doctrine or dogma. The reasons for Kissinger's relative freedom from ideology are to be found in his background. He suffered a youth profoundly upset by the experience of a Germany that came to epitomize to him utter chaos. Out of this shattering experience he could not help but develop, consciously or unconsciously, a basic mistrust of "shakers of the world." He fits into neither the world of Edmund Burke nor that of William F. Buckley. Kissinger's kind of conservatism and his vision of a world with a stable structure for peace led him to fall passionately in love with 19th-century nationalism and to admire that great architect of a structure for peace, the German Chancellor Bismarck (1815–98). But it is less the early Bismarck, who unified Germany, that he admires so much as the later one, who after he had unified his country tried to establish a secure and stable Europe.

The amount of human tragedy Kissinger saw around him during his formative years accounts for his being a man given to occasional melancholy or perhaps *Weltschmerz*, and for being a convinced pessimist beneath a certain playfulness and levity. It is rather apocalyptic gloom that possesses him: thoughts about the inevitability of injustice and some sort of inescapable ultimate doom. He admits to a belief in the tragic element of history: "There is the tragedy of a man who works very hard and never gets what he wants. And there is the even more bitter tragedy of a man who fully gets what he wants and finds out that he doesn't want it." I am certain that the latter experience has been shared by both Mr. Nixon and Dr. Kissinger during their trials in the White House, even though they find occasional triumphs worth the agonies.

Both Kissinger and Nixon play a carefully calculated game. They move with caution and after they have considered all the options, but in Nixon there is also a gambler's instinct. This is a quality of the President that Kissinger, with his intellectual approach, must have worried about; yet he also admires it as an asset in a leader because it is an instinct that he lacks himself. He does, however, believe in an active, not a reactive, diplomacy, for he maintains that this is the best way to control events.

He saw as part of his role to reinforce the President's "nerve." When Mr. Nixon came close to losing his composure during the Cambodian crisis, it gave Kissinger a crucial opportunity to prove his loyalty. From then on a certain dependence on each other developed between the two. The President not only came to rely on Kissinger to present him with the options to policies but also to relieve the loneliness of the presidency. Too much dependence on one man creates special loyalties, but it can also awaken a sense of frustration; both came to develop between the two.

Kissinger has the rare gift of being a conceptual thinker, a quality which separates the intellectual from the politican and which made Kissinger into a particularly valuable aide, for he was able to give the President's policy instincts intellectual content. The President is not a profound thinker, but he can ask profound questions, and Kissinger's ability to give him the answers, to explain to the President where he might find himself half a dozen moves from where he stood, gave Mr. Nixon the kind of intellectual sense of security he needed.

Kissinger is credited by many as a brilliant manipulator—both his admirers and detractors confirm it—and occasionally he prides himself on his expertise in this role. "Power is the ultimate aphrodisiac," he began saying when he came to realize the new attraction he exerted on women and took advantage of it. But power is more than an aphrodisiac; it is a temptation to test its effects in exercising it. Kissinger admits that he enjoys the exercise of power, and some have discovered this to their cost when they sought to interfere either with a course or a policy he considered vital or with his own status. What added to the inherent power of his position and his burdens was the weakness of two key Cabinet members, Rogers and Melvin Laird. Kissinger's personal conspiratorial approach to diplomacy, combined with Nixon's McLuhanesque electronic style, of using television for his dramatic *coup de theatre* announcements, provided a sort of surrealist vision of 20th-century diplomacy. Together they made it work, but it is an unpredictable style and it disturbed political Washington as well as allies and foes. Yet Kissinger succeeded in defying an old Washington dictum that you can have in the capital visibility or influence, but not both. He acquired both, and more of either than any of his predecessors. At Harvard he is remembered as a shy, somewhat arrogant professor. "I was born arrogant," he says, and refers to himself as "an acquired taste." When I asked Kissinger, after his third year in the job, in what way he thought he had changed most, he said in the self-confidence he had gained. This self-confidence led him not only to test his own mettle to the limit, but also to enjoy living dangerously. Washington worships virtuosos, but it also strangles them with attention and blinds them with limelight. If the virtuoso is also powerful he is as much admired as feared, as much lionized as berated. Even his newly acquired humor was viewed with suspicion and amusement. Fritz Kraemer, his old friend and mentor, and his former Harvard colleagues remember Kissinger as humorless, almost too serious-minded to laugh at anything, least of all himself, and were surprised at the sudden wit and social ease his newfound self-confidence had inspired. To those

who liked him it was an enjoyable new trait and a sign that this hard-headed, hard-driving egotist was becoming more human. To those who saw him still as Dr. Strangelove it was nothing but a clever device to put people off the scent of the real, tough inner man. Gov. Nelson Rockefeller, well acquainted with Kissinger's character, summed it up differently: "Every period has its Humphrey Bogart, and the tough guy of our times is Henry Kissinger."

Kissinger has come to enjoy celebrities. Having become one himself, he can meet them on equal terms. He loves the power and fame of which he acquired more than he had ever dreamed, but he still chews his nails. His inner tensions and some of his insecurities persist behind a deceptively casual facade of geniality, self-deprecation, easy humor and aphoristic conversational skill. He felt at ease with Chou En-lai and Leonid Brezhnev, more perhaps than with Western leaders, but he can still feel uncomfortable with people he thinks know him well. He can surprise his friends with his thoughtfulness and sensitivity, but may go further out of his way to keep his enemies disarmed—soothing them he regards as a challenge that he has been surprisingly successful at meeting. He maintains his old loyalty to Governor Nelson Rockefeller, for whom he worked for 14 years, but probably less for the appreciation of the man than for the safe harbor he continues to be to him. He has become more concerned than ever about what others say or print about him, and caution is warranted when he says to a friend, "You are one of the few I don't try to manipulate." Publishers have offered him contracts in six figures, and yet he is worried about the future, less for its financial aspects than what kind of job he should seek and what the loss of power may do to him psychologically.

Kissinger's love-hates are the press and his Harvard colleagues, and both reciprocate these feelings. Yet there also exists a great mutual respect. In fact, he became the most appreciated and adroit press briefer in White House history. It is an extremely important role, which normally falls to the Secretary of State, but one which Kissinger also had to assume and in which his experience as a teacher and lecturer greatly aided him. His refusal to use the phrase "no comment" and his ability to illuminate or shrewdly obfuscate a situation aroused admiration as well as exasperation among the press. His habit originally was to make his briefings so-called backgrounders, which meant that he could not be identified except as a White House official; but then, he was persuaded to give his general briefings on the record and attributable to him, especially since Secretary Rogers rarely faced the press in public. Kissinger's press briefings were also an act of showmanship. He had an uncanny way of relieving the initial air of adversaries facing one another that always exists between the briefer and the reporters. He liked to open with a lighthearted but poignant anecdote, as for instance when he began by saying, "I understand that my job is to communicate with you. This reminds me of the story of a Christian who was thrown into the arena with a lion. He thought he had better start with a prayer before the ordeal. When he did this, he found that the lion was also adopting a rather reverential pose. He said, 'Well, thank God, at least I am communicating with you.' The lion said, 'I don't know about you, but I am saying grace.' "

Or, on another occasion, "When I was at Harvard the thing that used to infuriate me most was tired bureaucrats who arrived to tell us that everything had been considered, that they knew so much more than we did, that any differences of opinion were due to gaps in knowledge, and that if we only knew as much as they did, of course, we would all agree with them. I just want to make sure, gentlemen, that you understand everything has been considered by us. If you knew as much as we did, you would, of course, agree with us, but if you don't we will take it with the attitude that not even the press can be right 100 percent of the time." Thanks to his gift of patience and his knowledge of the substance of the briefing, he always remained in control, however fierce and searching the questioning. "I am here to explain policy, not to debate it," he told one polemical questioner.

Sometimes correspondents complained, though, that in private briefings he tended to "shade" his interpretations to appeal to the politcal inclinations of the person he was addresssing, whether that person was a Joseph Alsop or an anti-war priest. One must wonder what these reporters expected from a master diplomat who could be equally persuasive with the earthy, bullylike Leonid Brezhnev and the sophisticated mandarin Chou En-lai. Kissinger can fiercely resent what he considers unfair press attacks on him, but not for long. He quotes with glee from a review of one of his own books, "I don't know if Mr. Kissinger is a great writer, but anyone finishing his book is a great reader." He enjoys the company of talented and provocative columnists, whether or not their views are in sympathy with his or the Nixon administration's, though he may feel more comfortable with those who are.

This ability to communicate became of enormous value to President Nixon, as it was a gift he lacked. Kissinger became the invaluable, and indefatigable and most loyal exponent of the policies he helped formulate and execute. And in the latter role he gained, in addition, greater personal fulfillment than any ever enjoyed by a senior presidential assistant. He had well-developed concepts and was presented with the opportunity, rarely given to an academic, to test them against practice, and he did it with a brilliance that led every head of state to recognize him not only as the President's first minister but also as his super-diplomat and plenipotentiary. He joined the President at the moment when the forces of change, so long suppressed, had begun to assert themselves. The question was how to manage a transition from relatively stable alliances to shifting coalitions in a world destabilized by the revolutionary manifestations of post-industrial society and by the changing military balances how to effect the retreat or, as Kissinger preferred to call it, the retrenchment of American power in a way that would not weaken U.S. ability to hold their own in the world balance-of-power game.

RETIREMENT OF JACK SPAIN

Mr. LONG. Mr. President, I would like to take a moment to honor a great North Carolinian and a great American—Jack Spain.

Jack recently retired after 32 years of service on Capitol Hill. He was administrative assistant to my distinguished colleague, the senior Senator from North Carolina (Mr. ERVIN) for the last 19 years, serving, in the words of the Senator, "with rare diligence and ability."

I recall meeting Jack soon after my arrival in Washington in 1948. At that time, he was administrative assistant to Senator Clyde Hoey. Our offices were on the same corridor of the Senate Office Building.

My wife, Carolyn, worked for many years with Jack in the offices of Senator Hoey and Senator ERVIN. She has a warm affection for Jack. We both regard him as a dear friend.

Jack is a native of Pitt County where he received his early education. He graduated from the University of North Carolina in 1923.

Mr. President, there will never be a more loyal alumnus nor a more ardent football fan of the Carolina Tar Heels.

During his many years in Washington, Jack did not develop a case of "Potomac Fever." He maintained his home in Greenville and supervised his farm in Pitt County. As he returns to the tobaccoland he loves, Carolyn predicts his new title will be "The Squire of Black Jack"—a rural community near his home.

Carolyn joins me in wishing Jack and his gentle, devoted wife, Marie, the best of everything in the future.

LAURELS FOR HENRY HOHMAN

Mr. MATHIAS. Mr. President, today's Baltimore Sun carried a column by Joseph Alsop which describes with great feeling the work of an exemplary Marylander, Henry Hohman.

Henry Hohman, of Kingsville, Md., has received England's Royal Horticulture Society gold medal for outstanding achievement in gardening. As Mr. Alsop points out, Lord Aberconway, the owner of one of England's finest modern gardens, hailed Mr. Hohman as—

> The most distinguished nurseryman in America, distinguished in the sense that anything others can grow, he can grow better, and he grows . . . a great many more and difficult plants that other people there cannot grow: thus they are preserved in cultivation.

I first learned of Mr. Hohman's work a number of years ago when my mother-in-law, Mrs. Robert Bradford, who is herself an extraordinary source of knowledge, sought him out as the only man in America who could provide certain rare species of box. I have followed his success with interest ever since.

Mr. President, we in Maryland are quite proud of Henry Hohman. His efforts have not only contributed to the science of gardening but have yielded new and beautiful plants and flowers for all of us to enjoy.

I ask unanimous consent that Joseph Alsop's column be included in the RECORD.

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

PROPHET WITHOUT HONOR IN HIS OWN GARDEN

(By Joseph Alsop)

KINGSVILLE, MD.—Americans sometimes have a way of honoring other people's prophets, but not their own. Here in Kingsville, one of our least honored but most honorable prophets lives in an old, old house, in the midst of a vast, half-impenetrable jungle of wildly assorted vegetation. The thicket happens to be a plant nursery, but you would hardly guess it.

Henry Hohman is worth celebrating now precisely because he has just been greatly honored—but in Britain, where they really care about gardens. The august Royal Horticultural Society, the gardening world's

equivalent of the College of Cardinals, has just sent Mr. Hohman its passionately envied gold medal. The medal came with a citation from Lord Aberconway, the owner of one of England's finest modern gardens.

"Mr. Hohman," said Lord Aberconway, "is the most distinguished nurseryman in America, distinguished in the sense that anything others can grow, he can grow better, and he grows . . . a great many more and difficult plants that other people there cannot grow: thus they are preserved in cultivation."

Just this, in fact, is what is going on in Mr. Hohman's jungle, although you would hardly think so at first glance. Furthermore, it is worth turning aside for a while from the larger concerns of this weary world to examine the lessons of Mr. Hohman and his jungle. In an odd way, they make their own comments on American culture (if that is the right word) in the last half of the Twentieth Century.

If Mr. Hohman were a Japanese, he would now be classified as a national cultural asset, as those with precious but vanishing skills are in fact classified in Japan. He will not tell you his exact age, but he began work in 1912.

He sought his first job with the nursery firm of Bobbink and Atkins, because he was already a passionate gardener. As a boy, he had fertilized and mulched and pruned his first roses in his salesman-father's West Baltimore backyard.

In 1920, he bought the land now covered by his jungle for a trifling sum, and he set up his own as a nurseryman. Rare and uncommon plants were already what interested him. He had no university or other training as a botanist. Yet he is by now the greatest American expert on rare plants, or at least on those rare plants that can somehow be made to thrive in our unfriendly climate. Yet he is humble about his knowledge.

"I have studied my work all my life," he will tell you gently—for he has that peculiar gentleness that seems to go with deep religious faith and deep love of growing things. "And I still feel I know nothing about it."

"Nothing," however, is a word that here requires definition. Mr. Hohman's jungle altogether contains 11,000 species and varieties of the trees and shrubs that are his specialty. Of box alone, he has 200 species and varieties, among which many are quite wonderful hybrids for special purposes that he has produced himself. Of azaleas, again, he says, deprecatingly:

"I only have about 1,000 species and varieties."

Besides being an incomparable hybridizer, he is the nonpareil of plant propagators in this country. The rarest of all American shrubs—rarer even than the famous Franklinia Alatamaka, found just once in Georgia in the Eighteenth-century and preserved ever since in cultivation—is a splendid flowering shrub called Illiotia racemosa.

There is one tiny clump of this rarity growing wild in the South. Yet no one had ever known how to propagate Illiotia until Mr. Hohman experimented, with his usual imaginative, delicate precision, with propagation by root cuttings. Now the world's great nurseries and public arboretums are lining up, hat in hand and from Belgium to Boston, for their ration of the newly propagated Illiotia (two to an arboretum).

So what are the lessons of this prophet without honor in our country? To begin with, you can still do very well in America if you are better than anyone else, and have enormous guts, too—for it takes guts to go on managing a jungle almost single-handed.

The arboretums, the few great American gardeners, the major foreign nurseries, still follow Emerson's rule about beating a path to the door of the man who has the best mouse-trap.

Yet on the other hand, have a look at any commercial American plant nursery, where the annually increasing millions of Americans who care about gardens make their purchases! Deadly sameness, deadly dullness, all in the name of mass production—these are the commercial themes.

If we cease to be able to tell "best" from "good." The future will be as depressing as rows of magenta azaleas planted against gracious suburban brick.

TRIBUTE TO MISS FAITH HILL

Mr. FANNIN. Mr. President, it was my privilege recently to join in special ceremonies in the Senate Office Building honoring Miss Faith Hill, a linguist from the Summer Institute of Linguistics. Attending the ceremony and representing the Executive Director of SIL, were the Washington representatives of the institute, Mr. Edward Boyer and Mr. Robert Schneider.

Over the period of 28 years, Miss Hill has made outstanding contributions to bilingual education and literacy among native Americans. Her distinguished linguistic and literary service has been especially important to the Apache and Navajo peoples of Arizona and New Mexico.

A book entitled "God Speaks Navajo" was written by the late Miss Faye Edgerton about the work of Miss Hill.

Mr. President, the work of the Summer Institute of Linguistics was cited in a joint resolution (S.J. Res. 105) during the 92d Congress and a subsequent Presidential proclamation entitled "Year of World Minority Language Groups." Both documents called attention to the worldwide situation involving more than 2,000 distinct vernacular tongues spoken by over 160 million people, without an alphabet or written form. The congressional resolution brought public recognition to the fact that the Summer Institute of Linguistics is working in more than 580 languages in 25 countries of the world.

Mr. President, I wanted to take this opportunity to make note of the ceremony in the RECORD, and once again to congratulate Miss Hill and the Summer Institute of Linguistics.

SAFE DRINKING WATER

Mr. MATHIAS. Mr. President, last year the Senate passed the Safe Drinking Water bill which would establish a cooperative program between the Environmental Protection Agency and the States to regulate drinking water. Unfortunately, the House did not have time to consider this legislation in the last Congress. This bill has been reintroduced in both Houses and hearings were held on March 8 and 9 in the Subcommittee on Public Health and Environment of the House Committee on Interstate and Foreign Commerce.

This bill should be of significant interest to every Member of Congress, especially to those in the Washington metropolitan area who are concerned with the potential crisis which could occur because of the lack of an adequate water supply for Washington and the surrounding counties.

Mr. President, my distinguished colleague in the House, GILBERT GUDE, has addressed the water supply problem and the pending safe drinking water legislation in testimony on March 8, 1973, before the House Interstate and Foreign Commerce Committee. I ask unanimous consent that his testimony appear in the RECORD today.

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

TESTIMONY OF THE HONORABLE GILBERT GUDE

Mr. Chairman, I appreciate this opportunity to testify today on the Safe Drinking Water Act. I know that you and the Public Health and Environment Subcommittee have put a major effort into this legislation, and I commend your efforts. During the 92d Congress, I sponsored the Safe Drinking Water Act and I am pleased to again do so during the present Congress.

The fact that President Nixon placed a high priority on this bill in his environmental message highlights its importance. Having reviewed the committee bill and the Environmental Protection Agency version, I concluded that I favored the committee version, primarily because I support the provisions for demonstration projects.

I feel such projects are important because local officials are inherently conservative when it comes to trying new water treatment methods, especially methods that involve reuse or recycling of water. If demonstration plants were available for observation and study, I believe that the advances made possible by modern research and technology would be implemented much sooner on the local level.

I have observed the water supply issue grow in importance in the Washington metropolitan area, and this is a relatively water rich region. I imagine this committee has heard of very serious situations in other parts of the nation.

One of our local controversies involves the upper Potomac Estuary, a natural reservoir holding more than 100 billion gallons. Although the Army Corps of Engineers is currently constructing a 100 million gallon water intake to tap the Estuary during periods of low flow of the Potomac, question have been raised in some quarters as to the safety of such a step.

Although the Potomac's average flow at Great Falls, Maryland is seven billion gallons per day (bgd), the record low flow was only 388 million gallons per day (mgd)—when compared to the peak demand of 402 mgd. Fortunately peak demand and low flow have not occurred on the same day, but the future may not be so fortuitous particularly since demands in the year 2000 are estimated to range from 700 mgd to as high as 1250 mgd.

It is interesting to note that the use of polluted surface water or recycled waste water is hardly a revolutionary or novel concept. An exhaustive study of ⅓ of American cities of 1961 demonstrated that these municipalities included from 0 to 18 percent municipal waste water from upstream in their drinking water supplies, with the average city having 3.5 percent recycled waste water in its system.

Polluted surface water is used regularly for drinking water supplies in the Passaic Valley, New Jersey, and a detailed study of the Passaic Valley Water Commission's operations documents its success in treating this blend of polluted and clean water to meet potable standards.

In considering the safety of drinking wa-

ter, three main criteria are usually looked at: bacteria, viruses, and chemicals. Of the three, the last has received the least study.

In conjunction with the estuary intake construction, the Corps has commissioned a local scientific firm to run virus tests on the treated water at Dalecarlia and already preliminary data is available. This is a landmark undertaking for a municipal operation.

The Corps is also working on a proposal to construct a 5 mgd pilot plant on the Estuary to experiment with a variety of water treatment methods. This is most welcome since a number of new methods have received little field testing. I have urged that all local public officials and citizens give this proposal their support. Washington, as you know, is unique in having the Corps of Engineers in charge of its water supply. Other cities do not have such good fortune and thus I stress the need for demonstration and pilot projects.

The Corps' emergency intake facility is scheduled to be operational by the summer of 1974. This coming summer is not expected to present a water shortage problem because of the heavy precipitation of the past months. It would appear then that the short term problem is solved.

As I mentioned, studies are rarely done or commissioned by local officials. EPA researchers have shown, however, that viruses do get through good, modern facilities, and it is suspected that some of these viruses may cause such illnesses as gastroenteritis. The Corps' research has in part been stimulated by concern as to the adequacy of the polluted estuary as a source of potable water. The corps wants to know if it can be properly treated so there is no danger from viral diseases.

Other epidemic diseases, suspected of being caused by viruses, such as infectious hepatitis, have not been associated with contaminated municipal water. Our water filtration and treatment systems, the National Institute of Environmental Health tells me, evidently do an adequate job of dealing with infectious hepatitis. The disease has been associated, however, with wells and other small local sources.

Although the detection of E. coli is the basic tool of today's sanitary engineer in monitoring bacteria, a simplified field detection and monitoring system for viruses has not yet been developed. Current methods require long and expensive laboratory work. What is needed is the discovery of a good indicator bacteriophage whose presence in water or waste water could be definitely correlated to the presence of animal viruses of importance to man. Virologists have indicated to me that with concentrated research and study such a virus monitoring system could be developed in as short a period as 18 months.

There are two virus removal methods—an actual physical removal and an inactivation by a disinfectant such as chlorine. The disinfectant does not actually remove the virus particle but rather inactivates its ability to infect an animal host. Despite the difficulty of easy detection, a fairly high level of virus removal can be obtained. In fact, 100 percent inactivation is theoretically possible.

The actual effectiveness of virus treatment facilities in the U.S. is unknown. One alternative treatment method which clearly has to be explored is the use of ozone for virus removal. Ozone has been used extensively in Europe as a water treatment agent for over 50 years. Ozone disinfection is thought to result from general cytoplasmic oxidation of the whole viral particle or cell. It is, therefore, reasonable to expect that viral inactivation will occur more rapidly than bacterial kill when ozone is the disinfecting agent because the viral particle lacks a cell wall and membrane and is much smaller than a bacterial cell. The employment of ozone however may have to be used in conjunction with chlorine—both in order to assure total bacterial disinfection and to provide a residual disinfecting agent to carry the water through the supply system.

Total removal of viruses can be achieved by membrane technology, so this area must also be given much attention and study. The membrane processes, reverse osmosis, and electrodialysis, along with ion exchange, have been the preferred methods of desalting brackish water. To date these processes are quite expensive and are only beginning to be developed for use on a municipal basis. They not only are effective against viruses but also remove chemicals—the third class of contaminants which we must consider.

The presence of organic and inorganic chemicals, and hard metals in drinking water has not been adequately dealt with at all. And this is a problem facing all American cities no matter what their water supply source. The Potomac, being relatively free of industrial development, is most likely less contaminated than other major rivers. A recent report by a Navy researcher indicated, however, that chemical contamination could be a problem and, of course, in recycling such materials could become more concentrated.

As I mentioned at the beginning of my statement, the local Washington area does not have a major water supply problem. Nevertheless, I believe I have given you a picture of some of the problems we do face.

In order to treat and reuse polluted water or to recycle water that has undergone tertiary sewage treatment, we should have more research and better treatment methods.

The Safe Drinking Water Act, in setting standards and proposing studies of the health aspects of reclamation, reuse and recycling, will help the local area as well as drier, water scarce areas.

In conclusion, Mr. Chairman, I would urge the Committee to give serious consideration to the citizen suit provision in the EPA bill. Of all of life's essentials, air and water are the first two. Citizens should have a mechanism by which to bring immediate action if their local officials fail to protect them by conforming with the provisions of this act.

CLOSE OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I know of no further morning business.

The ACTING PRESIDENT pro tempore. Is there further morning business? If not, morning business is closed.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1973

The ACTING PRESIDENT pro tempore. Under the previous unanimous-consent agreement, the Senate will now proceed to the consideration of S. 398, which the clerk will state by title.

The legislative clerk read as follows:

A bill (S. 398) to extend and amend the Economic Stabilization Act of 1970.

The Senate proceeded to consider the bill, which had been reported from the Committee on Banking, Housing and Urban Affairs with an amendment to strike out all after the enacting clause and insert:

That this Act may be cited as the "Economic Stabilization Act Amendments of 1973".

AUTHORITY TO ALLOCATE PETROLEUM PRODUCTS

SEC. 2. (a) The first sentence of section 202 of the Economic Stabilization Act of 1970 is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", and that in order to maintain and promote competition in the petroleum products to meet the essential needs of various sections of the Nation, it is necessary to provide for the rational and equitable distribution of those products."

(b) The first sentence of section 203(a) of such Act is amended—

(1) by stiking out "and" at the end of clause (1);

(2) by striking out the period at the end of clause (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof a new clause as follows:

"(3) provide for the establishment of priorities of use and for systematic allocation of supplies of petroleum products in order to meet the essential needs of various sections of the Nation and to prevent anticompetitive effects resulting from shortages of such products."

EMPLOYMENT GOAL

SEC. 3. Section 202 of the Economic Stabilization Act of 1970 is amended by inserting "(a)" before "It is hereby determined" and by adding the following new subsection at the end thereof:

"(b) In achieving the objectives set forth in subsection (a), the Congress hereby determines that an unemployment rate of 4 per centum or less for the civilian labor force as defined and measured by the Bureau of Labor Statistics is achievable by April 30, 1974, and is consistent with reasonable price stability. It is the sense of the Congress that the President and Congress should undertake such policies and enact such legislation as may be necessary to achieve a rate of unemployment of 4 per centum or less not later than April 30, 1974."

DEFINITION OF SUBSTANDARD EARNINGS

SEC. 4. Section 203(d) of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new sentence: "The President shall prescribe regulations defining for the purposes of this subsection the term 'substandard earnings', but in no case shall such term be defined to mean earnings less than those resulting from a wage or salary rate which yields $3.50 per hour or less."

CLARIFICATION OF AUTHORITY CONFERRED BY ACT

SEC. 5. Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(j) Nothing in this title may be construed to authorize or require the withholding or reservation of any obligational authority provided by law or of any funds appropriated under such authority."

PUBLIC DISCLOSURE

SEC. 6. Section 205 of the Economic Stabilization Act of 1970 is amended—

(1) by striking "All" and inserting in lieu thereof "(a) Except as provided in subsection (b), all"; and

(2) by adding at the end thereof the following new subsection:

"(b) Any business enterprise subject to the reporting requirements under section 130.21(b) of the regulations of the Cost of Living Council in effect on January 11, 1973, shall make public any report so required which covers a period during which that business enterprise charges a price for a substantial product which exceeds by more than 1.5 per centum the price lawfully in effect for such product on January 10, 1973, or on the date twelve months preceding the end of such period, whichever is later. As used in this subsection, the term 'substantial prod-

uct' means any single product or service which accounted for 5 per centum or more of the gross sales or revenues of a business enterprise in its most recent full fiscal year."

FOOD PRICES

SEC. 7. Section 216 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following:

"(c) The President shall transmit quarterly reports to the Congress not later than thirty days after the close of each quarter describing the rate of change in food prices by category of food, the reasons for any such change, and the actions he has taken or recommends to the Congress to be taken to stabilize food prices."

EXTENSION OF ACT

SEC. 8. Section 218 of the Economic Stabilization Act of 1970 is amended by striking out "April 30, 1973" and "May 1, 1973" and inserting in lieu thereof "April 30, 1974" and "May 1, 1974", respectively.

Mr. TOWER. Mr. President, I ask unanimous consent that during the consideration of S. 398, Mr. Michael Burns and Mr. Elwin Skiles, of the minority staff, be granted the privilege of the floor.

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

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

Mr. President, I ask that the time consumed by the quorum and pursuant to my request not be charged to either side.

The ACTING PRESIDENT pro tempore. Is there objection? Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. SPARKMAN. Mr. President, it is my understanding that the bill has been laid down and is now before the Senate; is that not correct?

The PRESIDING OFFICER. That is correct; and time is under control.

Mr. SPARKMAN. Mr. President, will the Chair inform me as to the time limitation. I understand we have 3 hours on the bill.

Mr. TOWER. Three hours is correct, to be equally divided between the distinguished Senator from Alabama and myself.

Mr. SPARKMAN. I recall that.

Mr. President, I ask unanimous consent that the following members of the staff of the Committee on Banking, Housing and Urban Affairs be allowed the privilege of the floor during consideration of the bill:

Dudley L. O'Neal, Jr., Reginald W. Barnes, Kenneth A. McLean, Stephen J. Paradise, Michael E. Burns, T. J. Oden.

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

Before the Senator from Alabama proceeds, the Chair would like to state the agreement for debate on the pending bill.

Time for debate on the bill will be limited to 3 hours, to be equally divided and controlled by the Senator from Texas (Mr. TOWER) and the Senator from Alabama (Mr. SPARKMAN); with time on the so-called Proxmire prenotification amendment limited to 2 hours and a 3-hour limitation on the so-called Proxmire freeze amendment; with time on all other amendments limited to 1 hour, and time on any amendment to an amendment. debatable motion or appeal limited to 30 minutes.

Mr. SPARKMAN. Is there not another feature in there, that any amendment would have to be germane?

The PRESIDING OFFICER. That is another feature, and the Chair thanks the Sentor from Alabama.

Mr. TOWER. Mr. President, could that unanimous-consent agreement be modified to state that if any amendment offered is acceptable to the distinguished chairman of the committee but is not acceptable to the ranking minority member, then the ranking minority member should control the time in opposition to any amendment? Would that not be agreeable?

Mr. SPARKMAN. Absolutely.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Texas?

The Chair hears none, and it is so ordered.

Mr. SPARKMAN. Mr. President, the bill before the Senate today, S. 398, would extend and amend the Economic Stabilization Act of 1970. This act is the act which gives the President authority to issue such orders and regulations as he may deem appropriate to stabilize prices, rents, wages, and salaries.

The Economic Stabilization Act was first used by the President in August 1971, when he imposed a 90-day freeze on all wages, salaries, rents, and prices. On October 7, 1971, the President announced his post freeze economic program. This phase II program went into effect on November 14, 1971. Under the phase II program, the President appointed a Cost of Living Council, a Price Commission and a Pay Board to implement his program.

On January 11, 1973, the President announced a change in the phase II program and implemented phase III. The phase III program envisions voluntary controls on certain segments of the economy with the eventual moving back to an economy completely free of any type of wage, salary, rent, or price control. Under this new program, the only administrative body would be the Cost of Living Council. The President has abolished the Price Commission and the Pay Board as constituted under the phase II program. Under existing law the Economic Stabilization Act of 1970 would expire on April 10, 1973. In order for the President to carry out his phase III program, it is necessary that his authority under the Economic Stabilization Act be extended. He has requested an extension to April 30, 1974.

As introduced, S. 398 provided only for a simple extension of 1 year of the Economic Stabilization Act. After careful consideration, the Banking, Housing and Urban Affairs Committee agreed to six amendments to the bill. I would now like to briefly discuss the provision of the bill as amended by the committee.

Section 1 states that the short title is the Economic Stabilization Act Amendments of 1973.

Section 2 of the bill would provide legislative authority for the President to establish priorities of use and an allocation system of supplies of petroleum products in order to meet essential needs for those products in the various sections of the country and to prevent anti-competitive effects which might well develop from shortages of petroleum products. The committee recognized that the long term answer to the current fuel shortage in some areas of our country is to increase overall supplies. On a short term basis, however, the committee recognized the necessity of providing legislative authority to the President to assure that sufficient supplies of petroleum products be made available to consumers this year.

Section 3 would provide that it is the sense of Congress that the President and the Congress should undertake such policies and enact such legislation as may be necessary to achieve a rate of unemployment of 4 percent or less not later than April 30, 1974. This would establish a goal for the President and the Congress to work toward during the coming year regarding unemployment. It is the view of the committee that if proper steps are taken by both the President and the Congress, this goal of a 4 percent unemployment rate is achievable and is consistent with reasonable price stability.

Section 4 of the bill would exempt workers earning less than $3.50 an hour from wage controls. Present regulations set the low income exemption from wage controls at $2.75 per hour. This figure of $2.75 per hour is based on family income rather than individual income. The committee believes and the legislative history of the act will show that this low wage exemption should be applicable to individual income rather than to family income. The $3.50 figure contained in the amendment would enable a worker to earn an amount equal to the amount fixed by the Department of Labor as the amount to maintain a minimum adequate standard of living for a family of four.

Section 5 of the bill is designed to make it clear that it is not the intent of the Congress for the Economic Stabilization Act either to authorize or to require the President to impound or withhold funds which have been appropriated by Congress. In a recent report submitted to Congress by the Office of Management and Budget one of the legal justifications cited as authority of the President's recent action in curtailing and cutting off various Federal housing programs and impounding the funds which were appropriated for them was section 203 of the Economic Stabilization Act. The legislative history of this act clearly shows that Congress did not consider that this legislation could or would be used by the President for this purpose. This amendment clearly states that the Economic Stabilization Act is not designed to provide a legal basis for presidential impoundment of funds and termination of programs passed by the Congress.

Section 6 of the bill would require any

business that is subject to the reporting requirements of the regulations issued by the Cost of Living Council to make public such reports covering a period in which that business enterprise increased the price of a substantial product by more than 1.5 percent over the price legally in effect for such product on January 10, 1973. "Substantial product" is defined in the amendment as any single product or service which accounted for 5 percent or more of the gross sales revenues of a business enterprise in its most recent full fiscal year.

Section 7 of the bill would require the President to issue a quarterly report to the Congress stating the actions he has taken and the recommendations he has made in regard to the price of food.

Section 8 of the bill would extend the Economic Stabilization Act for 1 year to April 30, 1974.

The committee considered an amendment which would impose Federal rent controls. This amendment was defeated by a tie vote of the committee. In this connection I might point out that the President has authority under this act to impose rent controls. Secretary Shultz told the committee that if rents become a general problem, they would reconsider the imposition of rent controls under phase III.

Mr. President, I hope that the Senate will act favorably on this bill as reported by the committee.

Mr. President, I ask unanimous consent to have a section-by-section analysis of the bill printed in the RECORD.

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

Section 1.—Cites the Act as the "Economic Stabilization Act Amendments of 1973."

Section 2.—Gives authority to the President to set priorities of use and systematic allocation of petroleum products.

Section 3.—Sets a maximum unemployment goal of 4% by April 30, 1974. Declares it is sense of Congress that the President and Congress should pursue policies to reduce the rate of unemployment to 4% by the end of April, 1974.

Section 4.—Changes the regulatory definition of the "working poor" from those earning $2.75 an hour to those earning $3.50 an hour.

Section 5.—Establishes that the Economic Stabilization Act does not authorize the President to withhold or reserve any obligational authority or any funds appropriated under such authority.

Section 6.—Requires business enterprises making price reports to make such reports public if the price increase is more than 1.5 per centum over the price lawfully in effect for such product on Jan. 11, 1973.

Section 7.—Requires President quarterly to submit report on food prices and what action has been taken or recommended action to be taken to stabilize such prices.

Section 8.—Extends Act for a period of one year, from April 30, 1973, to April 30, 1974.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The Banking, Housing and Urban Affairs Committee, under the very able leadership of the distinguished Senator from Alabama, has reported the bill which Senator SPARKMAN and I introduced to extend the Economic Stabilization Act from April 30, 1973 to April 30, 1974. The wage-price controls program established by the President in August of 1971 has been successful in getting control of cost-push inflation and knocking out the bulk of the inflationary expectation problem. The types of price increases that have occurred in recent months have essentially been due to increased demand for certain foodstuffs, which is not the type of inflation that wage-price controls can deal with. Only increased supplies will resolve that particular price problem, and extensive Federal supply encouragement actions have already been taken.

The use of wage-price controls in a free society can only be justified to deal with an emergency situation where cost-push forces and inflationary expectations are creating an inflationary spiral. This situation has been satisfactorily dealt with, and the President has wisely moved toward decontrol with Phase III. We hear some call now, however, for reimposition of various aspects of Phase II controls, largely because of concern about relative shortages of certain products, principally food, rental housing units in some areas, lumber, and petroleum products. The fact should be made very clear at the outset that reimposing Phase II control on sectors of the economy that are faced with a shortage problem will not resolve those problems. They can only serve to make them more severe by preventing full dollar demand from drawing new productive resources into play to satisfy the demand for such products. The Senate should resist the seemingly attractive short-run solution to specific economic problems of imposing mandatory wage or price controls or rationing on the affected sectors; we must look to the long-run strengths of a free market economy to supply the goods and services that Americans want in the quantities that they want.

There are a number of issues that have been raised in committee in the form of amendments, some of which were adopted and the two major ones of which were rejected, those two being the rent controls amendment and the prenotification amendment. The more bound by inflexible prescriptions and proscriptions that the bill becomes, the less useful the act will be as a policy tool to deal with a very complex and constantly changing economic situation. I will reserve for the time being my comments on amendments which will be brought up today and tomorrow, but I will include here for the record comments on some of the amendments already adopted in committee which I think were unwise and should not be included in this legislation. I ask unanimous consent that my printed views from the committee report dealing with the $3.50 working poor standard, unemployment target of 4 percent, and rationing of petroleum products be printed in the RECORD.

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

$3.50 WORKING POOR STANDARD

The Committee adopted a proposal to change by statute the regulatory definition of the working poor, who are exempted in the Stabilization Act, from those earning $2.75 per hour to those earning $3.50 per hour. The utilization of a $3.50 definition for the working poor would pose a severe problem for the Cost of Living Council in its program to achieve economic stability. The use of this straight-time hourly rate exempts over one-half of the nonsupervisory private nonfarm labor force from the wage guidelines. Moreover, in the particularly troublesome health and food industries, which are under mandatory controls, over eighty percent of the nonsupervisory workforce would be exempt from the Economic Stabilization Program. Other low-wage industries such as apparel, textiles, leather products, and services may become problems with the $3.50 definition of the working poor.

In addition, certain occupational categories will have wage scales which are well below $3.50 per hour and, consequently, would not be subject to any effective limits, while other occupational categories in the same firms or units would remain subject to the stabilization standards. In industries with higher levels of compensation, the use of a $3.50 cutoff is likely to produce serious intra-unit distortions by creating problems of wage compression. Thus, by producing imbalances within the economy, the $3.50 definition of the working poor is likely to inhibit the Cost of Living Council's efforts to attain wage and price stability. Increased inflation throughout the economy would reduce the purchasing power of the wages of *all* workers so that those with the lowest wage rates would be the most adversely affected. Raising the low-wage exemption level too high, consequently, would hurt the purchasing power of those lower wage workers for whom the low-wage exemption was presumably designed.

UNEMPLOYMENT TARGET OF 4 PERCENT

The Committee adopted an amendment setting a target of 4% for unemployment by the end of 1973, and instructing the President to take action to reach that goal.

The goals of economic policy are more complex and diverse than simply attaining a certain unemployment figure. Precision in specifying an unemployment goal without regard to other economic goals has been avoided since the enactment of the Employment Act of 1946, for fear that such a single-minded pursuit of low unemployment would mean that collateral goals, such as price stability, would be sacrificed. At the present time of concern about restoring price stability, it would be particularly unhealthy to focus all efforts on reducing unemployment to a specified figure, to the neglect of other economic problems that also affect the welfare of the American people. Inflation and its effects on those on fixed incomes and on the long-run ability of the economy to reach stable full-employment cannot be thrust aside for a short-run, all-out course of action against unemployment. We have to have a balanced set of national policies to achieve constant progress against all of the problems that we face, and while we can all agree that one of our most important intermediate-to-long term goals is to get unemployment down to 4% and below, we cannot simply instruct the President to drop everything else and go after that one goal for immediate window-dressing results.

There are steps that can be and have been taken toward reducing unemployment, particularly in developing appropriate training programs and establishing computerized job banks. If Congress would build the rational feature of a differential rate in the minimum wage law as it applies to teenagers, a substantial portion of those presently unemployed would be placed in jobs. Household services and general skilled repair work, so much needed in this day of working families and extensive appliance and auto utilization, beg to be performed by anyone today willing to devote some time and effort to learning and practicing these professions. We can cure unemployment, but most of

the actions to accomplish this take time and must be meshed in with all other economic policies of the government. After all, if all that we wanted to do was reduce unemployment immediately, we could go further into deficit and put all the unemployed on government payrolls. Obviously, such a single-minded policy would involve great costs in other areas, and simply indicates the truth of the fact that we cannot isolate a single economic result as the alpha and the omega of governmental policy, as this amendment would seem to have us do.

RATIONING OF PETROLEUM PRODUCTS

The Committee adopted an amendment which empowers the President to "establish a system of priorities of use" and to provide for "systematic allocation of supplies of petroleum products in order to meet the essential needs of various sections of the nation. . . ." While there can be national emergencies where federal rationing programs become necessary, it would seem that in a peacetime period where the economic system is healthy and is capable of marshaling the resources needed to meet the demands of its consumers and economic units, we should avoid the rather drastic step of rationing. The market price system has proven to be the best allocation device in history, and attempts to deal with shortages by intervening in that system with wage and price controls and/or rationing arrangements have traditionally resulted in worse shortages than were in existence to begin with.

We must face the basic economic fact of life in the country that rising market prices are the best means we have to bring about the investment needed to produce more of the goods and services that are in increasing demand. In the case of petroleum products, the best long range solution to any shortages that may develop is to allow the oil industry to earn market prices, which would be sufficient to justify extensive investment in exploration and in production facilities and to encourage investor capital to come to the firms in the industry. Rationing will effectively detract from the market price level and deter the investments that we want to encourage.

Mr. TOWER. Mr. President, I yield to the Senator from Utah such time as he may require.

Mr. BENNETT. Mr. President, I want to express my support for the extension of the Economic Stabilization Act. The enactment of this legislation will allow an orderly transition from phase II to phase III of the President's new economic policy. It is the next logical step in the President's program of gradual decontrol from the strong measure of mandatory wage and price control implemented in August of 1971.

Phase III is not a radical departure from the goals embodied in phase I and II, instead it is a shift in emphasis. Greater stress will be placed on voluntary cooperation by all segments of the public. The standards of phase III will be primarily self-administered. Business and labor will be able to determine by themselves what conduct conforms reasonably to the established guides. Only in those instances when there is obvious disregard for the guidelines will the Federal Government exercise its authority to set mandatory rules.

I am confident that there will be little need for the use of mandatory rules because people want inflation curbed. It is clear to all that nobody wins in a continuous spiral of soaring prices and wages. With a cooperative effort, I am certain that the President's goal of getting the rate of inflation down to 2½ percent by the end of the year can be achieved.

While it is obvious that some of the trouble spots that existed under phase II will remain under phase III, the centerpiece to the success of this program has got to be responsible Government action. Discipline must be maintained to stay within the President's proposed budget. Failure to follow policy of fiscal responsibility will in large part offset the positive effects achieved under phase I and II.

To complement a program of responsible fiscal budgeting, action is also being taken that will help reduce prices in the lingering trouble spots, particularly food, health care, and construction. The creation of a Cabinet level Cost of Living Council Committee on Food and a nongovernmental Food Industry Advisory Committee will provide a means of examining every possible method of curbing rising food prices. The implementation of the committee's recommendations and the effect of actions already taken by the Nixon administration should result in a downward movement in food prices by mid-year.

As I have mentioned, Mr. President, I have complete confidence that the guidelines and policies of phase III will be able to bring the economy closer to the President's goal of 2½-percent inflation rate. However, these policies can only be successful if they are not made unworkable by statutory restrictions that will inhibit the flexible nature of the overall program.

For this reason, I am opposed to several of the amendments adopted by the committee and to many that have been discussed and rejected by the committee.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield me time on the bill?

Mr. SPARKMAN. How much time?

Mr. PROXMIRE. Twenty minutes.

Mr. SPARKMAN. Mr. President, I yield to the Senator 20 minutes on the bill.

Mr. PROXMIRE. Mr. President, I have great respect for my colleagues who have already spoken, but I feel very strongly that this is a weak bill.

Phase III is a very, very weak and inadequate and ineffective operation, and I think most economists and investors and others who follow what is going on—indeed, many housewives—now recognize this.

I say that recognizing that the bill does constitute an improvement over the simple extension of the Stabilization Act which came before the committee. It is improved in several ways.

No. 1, the committee amended the bill to establish a goal of reducing unemployment to 4 percent by the expiration of the act in April 1974; also, to exempt workers earning less than $3.50 an hour from wage controls. That is desirable and necessary, in view of the fact that $3.50 an hour these days means that if you work 2,000 hours a year, your annual income is $7,000.

The finding of the Department of Labor is that any family making less than $7,400 a year cannot afford the minimum essentials and is having difficulty making both ends meet. The Wage Stabilization Act should not be used to hold down the income of people with low incomes.

To be frank, the fact is that this amendment is not going to result in sharp increases for these people. These are the people with the lowest wages in the economy; they are not organized. Under phase II they were well below the guidelines, and they will continue to be under phase III.

However, it seemed that in justice we should not make it the policy of Congress that we would not permit people with substandard incomes not to have the opportunity to improve their lot by negotiating with an employer.

There was also an amendment by the Senator from Maine (Mr. HATHAWAY) to provide cost reports by large corporations. This was a welcome improvement. We will be in a much better position to evaluate price increases if we have that information available.

Also there is a provision to authorize the President to ration petroleum products and a provision to inhibit impoundment of funds appropriated by Congress. All of this is very helpful.

Mr. President, I rise now to speak because I have an amendment pending with a number of cosponsors that would provide a ceiling on overall spending. I do not intend to press that amendment on this particular bill. I understand I will have an opportunity to press that amendment within the next week or so. I intend to do so, and to do so vigorously. I would like to state now precisely why that amendment is necessary and explain why I think it is essential that we pass that kind of legislation if we are going to have an effective Price Stabilization Act. Wage and price controls alone will not do the job. Economists, both conservative and liberal, overwhelmingly agree. In the 25 days of testimony we heard in our committee and the many days of testimony taken by the Committee on Banking, Housing and Urban Affairs it was corroborated again and again that price and wage controls by themselves will not do the job. What is needed is an effective fiscal and monetary policy.

That means that you have to hold down spending. There is little sympathy for a tax increase. If we are going to have an effective system of holding down spending we have to have a fiscal policy that will work.

Anyone who thinks phase III is working now must be in a cocoon completely insulating himself from what is going on in the world. One does not have to go to the sharp investors who have driven the dollar down and undermined the dollar, or required a devaluation on our part, and one does not have to talk to stock market investors who are selling the market short; in spite of all the encouraging economic indicators which suggest the economy is booming, the stock market is dropping. Why? Again and again we come back to a recognition that phase III is weak; that it will not do the job and that we are in for serious inflation.

One does not have to pay attention to the stock market. For those who seek spectacular evidence of the weakness of phase III, the most obvious evidence is to talk to the housewife, talk to your wives, or go to the store and see what is happening to prices.

Not only will wage-price controls fail if we do not have a spending ceiling or effective fiscal policy, but devaluation will not work. All the evidence suggests the reason devaluation was necessary, was the recognition by foreign investors that the anti-inflation policy in the United States was weak and not working, that the timing of the administration in dropping phase II was a serious blunder. To drop it as sharply as they did was a serious mistake.

Without a spending ceiling, our fiscal policy is expansionary, inflationary. The anti-inflation burden falls heavily then on monetary policy. Monetary policy works through our credit policy and control of the money supply. It manifests itself in interest rates. When the Federal Reserve Board wants to slow down credit they raise the interest rate. Borrowers are then less inclined to borrow and to spend. Sharply restraining monetary policy can have a devastating effect on housing because interest is so important in buying a house.

The monetary policy adopted in the credit crunch of 1966 cut housing starts to an annual rate of less than 1 million a year and resulted in full-fledged depression in housing and was a disaster. Every time we have had a credit crunch housing has suffered.

State and local governments are unable to justify going to the market when interest rates are high to borrow money to build schools and hospitals and other facilities that State and local governments need.

When fiscal policy is weak because we are spending too much, there is terrific pressure on the Federal Reserve Board to have a restraining monetary policy with high interest rates, and a devastating effect on housing, State and local governments, and also on the farmers. Farmers are the most conspicuous borrowers and debtors in our society. Senators who have farmers in their States need only talk to those farmers to find out why it has hurt them. Few of them are able to pay for farm improvements without borrowing and so high interest rates hit them. A loose fiscal policy that throws the anti-inflation based on monetary policy is bound to hurt farmers badly.

I want to emphasize especially that congressional action on a ceiling soon is essential. We have to act now to assure the country that we mean business about stemming inflation. Wholesale prices rose in December at a record rate. They rose even more sharply in January, and they rose at a heartbreaking rate in February. One can say all he wishes about the increase in the price of food, but those wholesale price increases were not confined to food.

The industrial price was up 12 percent, the biggest increase in more than 22 years. This was an increase in basic products: lumber, steel, nonferrous metals that go into the construction of everything we buy in the United States. There is no way, with that great wholesale price increase that we suffered, that we can prevent that increase being reflected in higher consumer prices in April, May, June, and July. That is inevitable unless we act with great force.

We heard complaints from the housewives but as they say in an old song, "Baby, you ain't seen nothing yet," because we are going to have consumer price increases in the cost of food in April, May, and June. Eventually Congress may be driven to adopt another amendment I have, that I may press at the end of the bill, providing for an across-the board freeze on prices, wages, and profits.

Finally, Mr. President, I would like to say there are more specific reasons why we should consider a spending ceiling now, and a ceiling below what President Nixon proposed. As I go around my State I find many people think the issue is that the President is proposing to hold down spending and Congress is proposing to increase it.

All of us who have reflected on this question recognize that this is not the case. It is true that Congress would like to increase spending in some areas substantially above what the President would like, but there has been no case made that the position of Congress in overall spending would result in spending higher than the President has proposed.

I am convinced, from talking to my colleagues on the Democratic side—and I am sure that it is true on the Republican side—that we intend to hold down the President's spending, not alone to what the President has proposed, but below what he has proposed.

If we go along with the higher ceiling the President has proposed, it will be another reason why the stock market, foreign investors, and others are so sure the United States is embarked on an inflationary policy. I say that because the President's proposal is to increase spending by 7½ percent. That is one of the biggest percentage increases by any President. It is a $1¢ billion increase in 1974 over 1973, and it comes on top of an economy that is already overheated, and it comes under circumstances in which we are going to have a particularly big deficit in the first half of calendar 1973. It comes on top of income tax refunds that are very substantial, over $20 billion that people will have and are likely to spend in the next few months and push up prices.

Any ceiling amendment should be offered and passed before the fiscal year starts. The earlier the better. If we wait until the new year, it will be argued that 2 or 3 months are needed for the agencies to get ready and that 12 months' cuts will have to be made in 9 months or less. The ceiling must be established early.

I found that out, much to my unhappiness, last year, when I tried to impose a ceiling on defense spending. I found it almost impossible to do it when the June 30 date is here. We have to go on with our commitments and ration that over the rest of the period. We cannot wait until June 30, because Appropriations Committees are acting now on appropriation measures, and those commitments that are made in the appropriation bills are going to be buttoned in to our prospective fiscal program within the next few weeks.

In the economic report, the President himself urged that Congress take action on a spending ceiling before we act on any money bills, and the President in that statement is absolutely correct.

Second, the economic stabilization bill is an excellent vehicle. The world is waiting for a sign that the United States means business about inflation. The one thing Congress can do is limit overall spending. We cannot, after all, enforce the Economic Stabilization Act. That has to be done by the President. But we can put into effect an overall ceiling on spending.

As I have said, I do not intend to offer the amendment to this bill. I can justify it, but I am withholding it, because I have been assured by Senators that they will support it if I can offer it to another bill.

Third, the excellent proposals of the Joint Committee on the Budget will not affect this year. They affect next year. But the spending issue is here and now. We cannot wait a year before we act.

Fourth—and this is something that very few people in the press and the many people in Congress do not really appreciate—the only way Congress can control spending is by a ceiling on spending or outlays—not obligational authority, but outlays. The distinction is very important. It is said that in order to cut spending by $1, we have to cut appropriations by $3. What we would have to do is cut the President's authority to spend money appropriated in the past and that will be appropriated this year. This year's spending is largely made up of past appropriations and past spending authority. To affect the present, we must have a ceiling on outlays, not just a limit on appropriations, because all this is a limit on spending. It is a limit on the President's powers. It does not give him more power. It limits his power. Without a spending ceiling, he could spend much more than $268.7 billion by drawing from the $298.5 billion in unspent backlogs he has at his disposal.

I think Senators must realize that we are not limiting the Congress by providing the ceiling; we are limiting the President, because, as I say, he has the discretion to spend or not spend. He has always had it. He has it on the basis of past appropriations. He can postpone or delay. We can limit the power of the President to make that expenditure—his outlay power, by imposing the ceiling.

Finally—and this should be very important to every Member of the Senate—a spending ceiling below the President's proposed budget will go a long, long way to resolve the impoundment issue. If Congress limits spending to $265 billion, there is no justification for the President to impound funds on grounds of fiscal responsibility. Congress will have been as responsible as the Presi-

dent—in fact more so than the President. Then Congress has every right to say that our priorities as they are worked out this year shall prevail. We can then have both the moral and economic arguments on our side. But if we fail to enact a ceiling, the President will win the spending fight.

Some people say, "Let us wait and see how much we are going to spend here and there, and how much we have to spend in various areas." That is not the way budgets are arrived at. That is not the way the President arrives at his budget. It is easy enough to find how he arrived at the 1972, 1973, and 1974 budgets. He arrived at that by determining what would be the full employment balance. He determined that that was the wise level at which to have a full employment budget without a tax increase. I think that was a mistake, because now we have an overheated economy, an economy that should be restrained, not an economy that should be expanded and stimulated. For that reason, I think it is far wiser to propose at this time a somewhat lower ceiling. But we should start not end the budget process with a ceiling.

For all the reasons I have given here, I intend to press hard for this amendment. I do hope other Members of the Senate will support it. It makes sense. It does not restrain the Congress, but the President primarily. It serves notice on the world that the Government of the United States is unified in its determination to have a sound fiscal policy.

I want to thank the Senator from Alabama for yielding me 20 minutes on the bill; and because I have been assured by other Members of the Senate that this amendment can wait until a later time if I do not offer it here now, I do not intend to offer it now.

Mr. TOWER. Mr. President, I call up my amendments No. 34 as I have modified them, and ask that they be stated.

The PRESIDING OFFICER. The clerk will read the amendments.

The legislative clerk proceeded to read the amendments.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendments be dispensed with.

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

The amendments are as follows:

On page 4, line 11, after "(b)" insert "(1)".

On page 4, line 14, after "report" insert "(except for matter excluded in accordance with paragraph (2))".

On page 4, line 24, insert the following:

"(2) A business enterprise may exclude from any report made public pursuant to paragraph 1 any information or data reported to the Cost of Living Council, proprietary in nature, which concerns or relates to the amount or sources of its income, profits, losses, costs, or expenditures but may not exclude from such report, data, or information, so reported, which concerns or relates to its prices for goods and services."

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I yield myself as much time as I may require.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. Mr. President, I intend to ask for the yeas and nays on this amendment. I notice that there are not quite enough Members on the floor to have the yeas and nays ordered, but I serve notice that I will ask for the yeas and nays.

Mr. President, the committee adopted an amendment to require that, for firms with sales of $250,000,000, if a given product's price is increased at least 1.5 percent on an annualized basis, the firm's quarterly report to the Cost of Living Council must be published. Involved here is the same essential problem that is involved in the prenotification/prior approval/public hearings amendment which the committee rejected, and that is the focusing of public antagonism about price increases on large firms, in spite of any cost or other justifications that may attend them. The distortions of economic behavior of the affected firms in order to avoid such public antagonism serves no rational economic purpose and will only lead to reduced production and employment as an ultimate result.

Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. TOWER. Secondly, there is some question whether the amendment imposes a requirement on the Cost of Living Council to publish information of the affected firms which is of a proprietary nature. Some members of the committee even indicated that they saw no public purpose served by the proprietary information concept. I feel that there are definite needs for the protection of proprietary information of business firms that comes to the Government, and it would be my hope that this amendment, if enacted, is not interpreted to override the existing statutory protections for such information in the Freedom of Information Act (5 United States Code 552) and the confidentiality of information provision of the criminal laws title (18 United States Code 1905).

The type of information which will be required to be reported in phase III by large firms will include detailed product line information, profit margin information, cost breakdowns for resources and labor factors used in each product, overhead information, productivity and volume information, and so forth. Much of this type of information is competitively very sensitive from the standpoint of each individual firm, and its disclosure to competitors will serve to prevent any affected firm from being able to utilize its talents and resources to produce desired goods and services for the public and yet to derive entrepreneurial profits from such activities.

In other words, breaching the confidentiality concept for such information means that the Government would be treating large business firms as utilities whose cost and price structures are public property. The means of keeping them limited to nominal returns on capital would simply be the pricing and strategy actions of competitors after they learn the sensitive cost, price, productivity, and market information of the affected firms. Treating large firms as utilities will only serve to reduce their direct investment of capital and the public's passive investment of capital in those firms, both of which will ultimately reduce their ability to produce the goods and services that our country needs in the quantities it desires and to reduce the size of the labor force that they can employ.

The amendment would also have a seriously adverse impact on the ability of our firms to compete against foreign business organizations, who would be in a position to know sensitive data about our firms while they themselves retained their own sensitive data in complete secrecy. This cannot do anything but injure our trade posture, both from the export and the import sides. At this point in international economic developments, we certainly do not want to encourage such an adverse factor for our trade situation.

I therefore offer my amendment No. 34 to assure that proprietary information is excluded from the scope of the public disclosure amendment.

Mr. President, this does not wipe out the present provision of the bill. It simply makes it possible to exclude information which is proprietary in nature which, if revealed, could work to a competitive disadvantage for a domestic company not only in terms of its operations in our own domestic marketplace, but also in the international marketplace as well, because this proprietary information would then become the knowledge of the foreign business firms doing competition with domestic firms. It would place our domestic firms at a very serious competitive disadvantage with foreign firms. In other words, it would give foreign competition all of the industrial intelligence that they need to compete in an advantageous way with American industry.

I therefore urge the adoption of my amendment.

Mr. SPARKMAN. Mr. President, I yield 15 minutes to the distinguished Senator from Maine.

Mr. HATHAWAY. Mr. President, I rise in support of the committee bill and in opposition to the amendment that has just been offered by the Senator from Texas (Mr. TOWER).

The public disclosure section in the committee bill, which I sponsored and which the committee approved by a 9-to-4 vote, makes an important reform in procedures under the Economic Stabilization Act. It requires public disclosure of reports made to the Cost of Living Council by certain very large companies, in the event that such a company raises the price of a substantial product by more than 1.5 percent a year—the phase III guideline on price increases. Under present law, companies with annual sales or revenues of $250 million a year or more are required to report their prices, costs and profits to the Cost of Living Council.

The purpose of this section of the bill is to give the public sufficient information to challenge excessive price increases when they appear to be unjustified and specifically to petition the Cost of Living Council to take action on the matter. I think that a disclosure requirement of the sort proposed here is essential to maintain public confidence in the administration's anti-inflationary program, especially in view of the voluntary nature of controls under phase III.

The amendment offered by the Senator from Texas (Mr. TOWER) would destroy the intent of the committee

amendment. I believe that it is really vital to the Economic Stabilization Act to agree to the committee amendment.

It has been alleged that the public disclosure section would require revealing information that must be kept confidential in order for a company to maintain its competitive position. I disagree with this contention on a number of counts.

First, of course, no company would have to reveal any information at all if it kept its price increases on substantial products below 1.5 percent. I have every expectation that most large companies will be able to do this and will thus not be affected at all by the public disclosure section.

Second, the language of the report on the bill makes it clear that this section does not require any disclosure of legitimate trade secrets, such as manufacturing and technical processes, or inventions. And in fact, the Cost of Living Council's forms do not ask for any such information.

Basically, this section does no more than put large companies on the same basis as single product-line companies that now make public reports to the Securities and Exchange Commission. It makes them disclose financial data on a product or product-line basis, which is nothing more than what many American companies have routinely disclosed through the SEC since 1934.

Incidentally, there seems to be some confusion as to what single-product means. The technical criterion which the SEC uses is four-digit SIC—standard industrial classification—code, which requires breaking out specific products by a modicum of detail, but certainly not down to a minute level. For instance, it would require that General Motors use a more specific classification than automotive products, which it now uses, and break out at least costs and profits on trucks and cars separately. On the other hand, it would certainly not go down to brand name level. For instance, Coca-Cola would have to report its prices, costs and profits for beverages, but certainly not for Coke as distinct from Tab.

Corporations subject to SEC reporting requirements—and virtually all making over $250 million a year fall into this category—must file with the SEC form 10–K, which asks for information on net sales, major items of cost and investment, depreciation and amortization of plant and equipment, net income or loss before and after taxes, and earnings or loss per share.

The Cost of Living Council has made available to me its most recent draft of form CLC–2, the proposed report of prices, costs, and profits. This is the form required to be submitted quarterly by firms making $250 million or more annually. In fact, it asks for very little information not demanded in some form by the SEC's form 10–K.

Form CLC–2 asks 19 questions on its first page. Of these questions, only seven call for financial information. Each one of these seven questions calls for information required to be publicly disclosed by the SEC in form 10–K, for all companies, whether single product line companies or otherwise.

Page 2 of form CLC–2 asks 10 questions for each product line. Only two of these—sales and cost justification—could in any way have ever been considered confidential. But the sales figures are already routinely made public in the case of every single SIC code company filing reports with the SEC. And the cost justification figure on page 2, which is merely the result of calculations on proposed schedule C, is almost identical to the figures which the Price Commission, during phase II routinely published for all tier I and tier II companies.

Schedule C of form CLC–2 is entitled "Calculation of Cost Justification To Support Net Price Increases." Schedule C requires a breakdown, on a product line basis, of nine cost faetors. Almost every one of the items required by schedule C is now, and has been for years, required to be publicly disclosed by single product, or single SIC code, companies on SEC form 10–K. One exception to this rule is the requirement of line 3 of schedule C that the company differentiate between the costs of imported and domestic direct materials.

I would like to point out further that the very existence of the public disclosure requirement should tend to hold down some excessive price increases. If large companies are anxious to avoid disclosing their costs and profits, this will give them an incentive to stay within the 1.5-percent guidelines.

Incidentally, I think it is reasonable to expect that the largest corporations in America will be able to keep increases of this nature down to 1.5 percent this year. After all, in phase II a number of the same companies were able to keep prices in substantial categories of their business down to 1.8 percent pursuant to TLP—term limit pricing—agreements with the Price Commission. My amendment, without interfering with the looser and self-administering aspects of phase III, just gives these companies the impetus to keep price increases in line with phase III guidelines—an impetus which they would not have in the absence of this provision.

I should point out that the impact of public disclosure requirement falls only in areas of great significance to the economy. The restriction to substantial products of firms with $250 or more in sales and revenues means that in the case of the smallest reporting company, sales of a single product up to $12.5 million are exempt from disclosure, while for very large companies such as General Motors, up to $1 billion of sales in a single product group would be exempt. So what we are dealing with here are cases in which an increase in price has a far-reaching effect on the economy, cases of sufficient magnitude that an excessive price increase can contribute to the burden of inflation.

This is not to say, however, that my amendment would not provide any additional information to the public, beyond what is already available. It would, in fact, make available information on single products or product lines of large companies, in detail which is not open to the public now.

Indications are that the trend for the future is to make product-line information available to the public anyway. The FTC has three proposals now before the OMB, any one of which would, if accepted, substantially aid in achieving this goal. And in fact, much of the clamor for product-line reporting has come from the investment community, which sees this as an aid in making investment decisions.

So my amendment just requires this sort of disclosure in advance of expected administration action along these lines—and I stress, furthermore, that it requires it only in the event that a large company raises a price on a substantial product by more than 1.5 percent. Surely this is little enough protection to demand for the consumer in a period of runaway inflation.

It has been alleged more broadly that public disclosure of information in reports to the COLC would endanger the viability and profitability of the companies involved, and thus that it poses a dangerous threat to open market competition. I do not find this to be the case.

The competitive advantage of a firm does not lie in its cost and profit figures. Rather it derives from such things as its trade secrets, its secret processes, its inventions, the morale of its workers, and the better management techniques of the company, none of which would have to be disclosed under the committee bill.

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

Mr. HATHAWAY. I yield to the Senator from Wisconsin.

Mr. PROXMIRE. I want to tell the Senator from Maine that I enthusiastically support his opposition to the Tower amendment. This would knock out the Hathaway amendment. In fact, the Hathaway amendment was adopted in committee by a 9-to-4 vote requiring limited disclosure on the part of large corporations.

As I understand it, the Senator has made it clear that the language in the bill at the present time, the language that would be drastically modified by Senator TOWER, does not call for more disclosure on the part of big business than small single-product companies have to disclose now, in an annual report. Is that correct?

Mr. HATHAWAY. That is correct; yes.

Mr. PROXMIRE. So there would be nothing revolutionary or radical or new about this; as a matter of fact, it just puts the big conglomerates in the same position as the smaller businesses which have to compete with them?

Mr. HATHAWAY. That is correct.

Mr. PROXMIRE. Then, as the Senator pointed out, the committee bill would help to maintain confidence in the fairness of the wage-price control program. As I understand, it is very difficult for labor to accept the 5.5-percent limit on wage increases, particularly if they suspect that price increases cannot be justified and will result in a much bigger increase in profits.

One of the purposes of the language of the Senator from Maine that would be deleted by the Senator from Texas is to make the facts clear, so that the public could have more confidence in the

decision as to whether or not a price increase is justified; is that right?

Mr. HATHAWAY. Yes. That is the main purpose of the amendment.

Mr. PROXMIRE. Finally, I think the impact of the Hathaway amendment on the bill is definitely anti-inflationary, because to the extent that the big firms want to avoid disclosure, they can do so, as I understand the Senator's language reads, by simply holding their price increases below 1.5 percent.

Mr. HATHAWAY. That is correct.

Mr. PROXMIRE. It is only when they make the big guideline busting increases that they have to make the disclosures which the Senator requires; is that correct?

Mr. HATHAWAY. Yes.

Mr. PROXMIRE. I thank the Senator.

Mr. HATHAWAY. And then only if the product accounts for 5 percent or more of their total revenue. Actually, that is a very lenient provision, because with giant corporations, making a number of products, many important items may not even account for as much as 5 percent of sales.

Mr. PROXMIRE. Mr. President, I hope the Senate will stand by the committee. The vote in the committee was 9 to 4, very decisive, and I think the amendment of the Senator from Maine is most useful.

Mr. HATHAWAY. I thank the Senator from Wisconsin.

I would like to point out also, as to the area of competition that seems to be the basis of the objection to the committee language; there are also a lot of data to indicate that competition among our largest firms runs at a rather low level, and that undoubtedly one of the prime causes for the inflation is the fact that we do not have enough competition in many areas.

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

The 15 minutes yielded to the Senator from Maine has expired.

Mr. HATHAWAY. Will the Senator from Alabama yield 5 additional minutes?

Mr. SPARKMAN. Mr. President, I yield 5 minutes.

Mr. HATHAWAY. Whether one likes it or not, I certainly do not like it, nor do I think any of the rest of us do; but the fact is that price-fixing and other anti-competitive arrangements are not uncommon in American business, and particularly among the largest corporations. So I find the competition argument somewhat ironic.

So I find the competition argument somewhat ironic.

I would like to point out, in concluding my remarks, that the amendment that has been offered by the Senator from Texas (Mr. TOWER) specifies that only prices can be revealed by the Cost of Living Council to the public.

Well, prices are already known by the general public. That is the basis upon which they will be making complaints. They are entitled to know on what basis these prices and price increases are founded.

The Senator from Texas mentions in his argument that the sources of costs should not be revealed. I agree with the Senator that the sources of costs should not be revealed. They are not currently being revealed under the Cost of Living Council regulations.

I presume that the regulations will continue in effect. What we are interested in getting at is actual raw cost data. I cannot see that this harms any corporation competitively. If it does to a slight extent, certainly the public benefit to be gained far outweighs the slight inconvenience that it causes to some of our large corporations.

I thank the Senator from Alabama for yielding me the additional time.

Mr. SPARKMAN. Mr. President, I wonder if the Senator from Maine would keep the floor and let me ask him some questions.

Mr. HATHAWAY. Certainly.

Mr. SPARKMAN. Mr. President, I may say that since the committee has reported the bill with this limit in it, I have received a great many protests. All of them have been on the ground that it does compel disclosure of proprietary information that would be harmful to the competitive position of the companies. What is the Senator's answer to that? Is that a correct charge or not?

Mr. HATHAWAY. I do not believe that it would be harmful to the competitive position of large companies.

As I mentioned in the course of my remarks, the competitive advantage that one company has over another company involves information that has not been required by the Cost of Living Council, and it would not be required under the committee amendment.

It involves such intangibles as advertising and sales techniques, morale of the workers, certain management processes, or trade secrets.

All that we are asking for are raw data or figures as to costs. We are not even asking for the sources of these costs.

Theoretically, we could say that if a corporation knew that a competitor was purchasing his raw material from the X, Y, Z Corporation at a lower price than it could purchase them from the A, B, C Corporation, then that might give the corporation a competitive advantage; but the source of supply does not have to be revealed under the Cost of Living Council form. Just the raw figures have to be revealed.

I cannot see how the corporation can gain very much from just knowing what his competitor's costs are.

In all likelihood the giant corporations have such an efficient spy network that they know these cost figures, anyway. They probably know a lot more about their competitors than the actual figures that would be disclosed under this amendment.

Mr. SPARKMAN. The Senator has referred to the questionnaire that the Cost of Living Council uses. Did the Senator put that in the RECORD?

Mr. HATHAWAY. No. I have not put that in the RECORD, but I think it should be made part of the RECORD. I would be glad to ask unanimous consent, Mr. President, that the form used by the Cost of Living Council be made a part of the RECORD at this point.

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

REPORT OR RECORD OF PRICES, COSTS AND PROFITS

This form applies to:

(1) ____Reporting Parent and Consolidated Entities

(2) ____Reporting Unconsolidated Entity
Parent name: _____

(3) ____Recordkeeping Parent and Consolidated Entities

(4) ____Recordkeeping Unconsolidated Entity
Parent Name: _____

PART I—IDENTIFICATION DATA

1a. Name of Parent or Unconsolidated Entity to which this form applies:

b. Address (number & street)

c. City or Town, State and ZIP Code

d. Chief Executive Officer

2. Is this a resubmission?

3. Ending Date of most recently completed fiscal year

4. Reporting Period Ending Date

5. To be completed by Parent only:
Annual Sales or Revenues_____

PART II—CALCULATION OF BASE PERIOD PROFIT MARGIN

6. Base year 1 net sales (fiscal year ended_____).

7. Base year 2 net sale (fiscal year ended_____).

8. Total (Item 6 plus Item 7).

9. Base year 1 operating income

10. Base year 2 operating income

11. Total (Item 9 plus item 10)

12. Base period profit margin (Divide Item 11 by Item 8)

PART III—CALCULATION OF PROFIT VARIATION

13. Net sales $

14. Base period profit margin (From Part II, Item 12)

15. Target current period profit (Item 13x14)

16. Actual operating income

17. Current profit under (over) target profit (Item 15, minus Item 16)

PART IV—ADDITIONAL INFORMATION

18. Individual to be contacted for further information:
Name & Title: _____
Address: _____
Phone Number (include area code) _____

19. You must maintain for possible inspection and audit, a record of all price changes subsequent to November 13, 1971. Give location of such records.

PART V—CERTIFICATION

I CERTIFY that the information submitted on and with this Form is factually correct, complete, and in accordance with Economic Stabilization Regulations (Title 6, Code of Federal Regulations) and instructions to Form CLC–2.

TYPED Name and Title of the Chief Executive Officer or parent or other authorized Executive Officer and Date of signing.

_____
(Name)

PART VI—PRICE/COST INFORMATION

CLC Number_____
Product or Service Line Description (a)
4-Digit SIC (b)
Reporting Period—From_____To_____
Authorized (j)
CUMULATIVE PERIOD
From _____ to _____
Sales ($000 Omitted) (c)
Weighted Average % Price Adjustment:
Actual (d)
Authorized (e)
Percent Cost Justification (f)
Maximum Percentage Price Increase (g)
Sales ($000 Omitted) (h)
Weighted Average % Price Adjustment:
Actual (i)

Authorized (j)
1. — 19. $
20. Totals from Continuation Schedule
21. Totals (Lines 1–20)
22. Weighted Average Percent Price Adjustment
23. Sales of or from Foreign Operations
24. Sales of Food
25. Other Non-applicable Sales
26. Not Sales.

CALCULATION OF COST JUSTIFICATION TO SUPPORT NET PRICE INCREASE ON FORM CLC–2

Product or Service Line——SIC #——

PART .—IDENTIFICATION DATA

1a. Name of Parent or Unconsolidated Entity.
b. Address (Street, City, State & Zip Code)

PART II—CALCULTATION OF COST JUSTIFICATION

Cost Elements—(Attach supporting schedules as required by instructions)
Percent of cost element that is variable (a)
Percent increase (decrease) in current cost level vs. primary cost level (b)
Percent of cost element to total costs at the primary cost level (c)
(b) x (c) expressed as a percent (d)
3. Direct materials: (1) imported: (2) other
4. Direct labor
5. Other manufacturing or service costs: (1) Labor; (2) Other Costs
6. Other operating costs: (1) Labor; (2) Marketing, General & Admin.; (3) all other costs
7. Non-allowable costs
8. Subtotal
9. Offset for productivity increase
10. Offset for volume increase
11. Weighted average percentage price increase justified by this schedule c. (Item 8 less Items 9 and 10)
12. Percent of total current costs to sales

Mr. SPARKMAN. Is this used at the present time?

Mr. HATHAWAY. Yes. This is the form that is being used at the present time.

Mr. SPARKMAN. Is that information disclosed? Is it published? Is it reported to the public?

Mr. HATHAWAY. At the present time that information is not made available to the public, because under the law as it stands, prior to passage of this legislation to extend it, that information is covered by the blanket of confidentiality that section 1905 of title 18 provides. It prohibits a Federal officer from revealing certain information coming into his possession. This amendment partially removes that blanket of confidentiality.

Mr. SPARKMAN. I wish the Senator would explain just a little more fully what the language is to which he just referred. The Senator said it forbids the disclosure of certain information. What type of information?

Mr. HATHAWAY. I do not have section 1905 in front of me, but it forbids a Federal officer from revealing any information possessed by him in the course of his work, such as trade secrets or processes or prices or costs, to the general public. He can use it only in the course of his employment.

Mr. SPARKMAN. The Senator referred to about four or five different factors there. Which of those would the Senator's provision in the bill remove?

Mr. HATHAWAY. My provision in the bill would remove prices, costs, and profits only.

Mr. SPARKMAN. Prices, costs, and profits?

Mr. HATHAWAY. Prices, costs, and profits; yes. That is correct.

Mr. SPARKMAN. Nothing else?

Mr. HATHAWAY. Nothing else.

Mr. SPARKMAN. Is it the Senator's contention that disclosing prices, costs, and profits would not constitute proprietary information that might be prohibited?

Mr. HATHAWAY. As the Senator from Alabama knows, prices are well known, anyway. They are a matter of public information.

Profits can be figured out if one knows what the costs are. What we are really revealing is simply the cost to the corporation.

The ultimate purpose of this information is to allow the general public, knowing the prices, to be able to look at the cost picture to see if the increase that the corporation has made above the 1.5 percent-level is truly justified.

I suppose in certain instances, if the cost had gone up quite high and if the profit margin were the same as before or even lower, then the Cost of Living Council would not be justified in admonishing the corporation from going above the 1.5-percent guideline on price increases.

If that were not the case and profits had actually increased, I think the public would be justified in calling upon the Cost of Living Council to take action against the corporation. If the public does not have this information, there is nothing the public can do to combat price increases which are not justified by cost and profit figures.

I thank the Senator.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Ohio (Mr. TAFT).

Mr. TAFT. I thank the Senator for yielding.

Mr. President, as I said in my supplemental views in the committee report, I do not believe that the committee considered section 6 of the bill thoroughly enough. That is the section which would require large businesses to make public any data submitted to the Cost of Living Council in support of price increases greater than 1.5 percent for "substantial products."

Consumer and stockholder interests dictate that as much business information as possible should be made available to the public. Nevertheless, the committee has correctly taken the position in the past that certain business information is proprietary and should not be made generally available. Present statutes, such as the Freedom of Information Act and the confidentiality of information provision of the criminal laws title, are consistent with this position.

This position has been taken on the grounds that disclosure of some kinds of information would give an unfair advantage to the domestic and foreign competitors of the company in question. Under section 6 of the bill before us, large firms would have to make public detailed product line information, cost breakdowns for resources and labor used to produce each product covered by the amendment, and various other kinds of information which would be valuable to their competitors. No other Federal law forces so much information of this type to be disclosed. Some businessmen in my State have commented that the main effect of section 6 would amount to industrial espionage.

Section 6 would seem to put large firms in a disadvantageous competitive position with respect to their smaller domestic competitors who are not subject to a similar requirement. The same is true with respect to foreign competitors. I need hardly emphasize the importance of such a development at this time. We are devaluing the dollar and undertaking trade negotiations in large part to eliminate unfair advantages which our foreign competitors have capitalized upon in international markets. We should not counterbalance these policies by passing any legislation which may give these competitors another unfair advantage.

Some members of the committee have indicated that they see no public purpose served by the proprietary information concept. Their point of view should, of course, be given close examination by all of us. However, our committee certainly did not do that. Not one witness testified on the merits of section 6 before the markup session at which it was considered. At that session, the Cost of Living Council's General Counsel was the only person unrelated to the committee who spoke about it, and he opposed it strongly.

Under these circumstances, I do not see how the Senate can conscionably reverse its established position on proprietary information and conclude that the enactment of section 6 in its present form would be beneficial. Therefore, I strongly support the Tower amendment.

Mr. HATHAWAY. I should like to point out in regard to foreign competition that we are, by allowing the public to gain access to this relatively meager information, helping to keep down the prices of domestic goods and thereby helping the domestic industry which, as the Senator points out, is competing with companies outside the country. I do not believe that the information foreign companies will get as to the costs of labor and material, which are—if the Senator will look at the form—gross figures, will put them at a greater advantage than they are at already. They know our prices.

The PRESIDING OFFICER (Mr. DOMENICI). The time of the Senator has expired.

Mr. SPARKMAN. Mr. President, I wonder how much time I have remaining.

The PRESIDING OFFICER. Seven minutes. The Senator from Texas has 20 minutes.

Mr. TAFT. Mr. President, will the Senator from Texas yield me 2 minutes to reply?

Mr. TOWER. Mr. President, I yield 2 additional minutes to the Senator from Ohio to reply to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 2 minutes.

Mr. TAFT. I thank the Senator from Texas for yielding me this time.

Mr. President, I would say to the distinguished Senator from Maine, it may be true that the availability of additional information about costs and labor factors and other factors on proprietary information of companies may lead to very low cost production. In fact, to tell the competitor—and, as I pointed out also the foreign competitor—exactly what the cost factors are, what the bid for a particular contract will have to be in order to make it unprofitable for the American company to compete in a particular line, as to many products particularly of the larger companies involved in international competition, and that actually the labor costs of foreign competitors, being lower in labor and other costs, would simply afford a beautiful way for the foreign competitor to take a look at exactly what the costs are and what the competitive factors are and then, sometimes, would subsidize the economies, really, in which the governments of those countries would be helping to ship goods into this country which will compete with our goods, which will in end up in running the American companies out of business and wiping out American jobs.

Mr. HATHAWAY. I should like to point out that labor and management agreements——

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

Mr. SPARKMAN. Mr. President, I yield 3 additional minutes to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio is recognized for 3 additional minutes.

Mr. HATHAWAY. I point out that labor-management agreements in this country are always made public, so that it is not very difficult for a foreign competitor or anyone else to find out what has been agreed to in a contract.

Mr. TAFT. Well, that is not what I am talking about. The Senator well knows that I am talking about the actual labor cost factors which go into the production of a particular product.

Mr. HATHAWAY. The Cost of Living Council form asks for the gross labor costs.

Mr. TAFT. Certainly, but that gross figure does not provide the basis on which the type of business I am talking about can be made.

Mr. HATHAWAY. Well, I think there is a misunderstanding here on both our parts. Much of this information can be obtained from the foreign competitor and the domestic competitor alike, whether it is revealed in the Cost of Living Council form, or in some other way.

I thank the Senator very much.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The Cost of Living Council's "Calculation of Cost Justification," to meet price increase as of February, 1973, requires the following:

Percent of the cost element that is variable. Percent of the increase, decrease, in current cost level versus the primary cost level. Percent of cost element to total costs at the primary cost level. The cost elements include direct materials both imported and domestic; direct labor; other manufacturing or service costs, which include labor and other costs; other operating costs, which includes labor, marketing, general and administrative, and all other costs.

Then there is the offset for productivity increase; the offset for volume increase; the weighted average percentage price increase justified by schedule C; and the precent of total current costs to sales.

All of this information can be of great value to competitive firms. It is information that if voluntarily exchanged between competitive firms would be in violation of antitrust laws, because it would mean the predicate to administered prices.

The Senator from Ohio has made an extremely good point, one that I made less eloquently than he did in my original presentation.

What possible benefit will flow to the general public that would outweigh the hazards to American industries which would be created by the release of this information to foreign competitors? What is the public going to do with this highly technical information? The average person does not do anything with it. There is very little reason for releasing it. It is something that a few sophisticated individuals would be capable of analyzing, which they might be able to do for certain firms. But the hazard to American industry certainly outweighs whatever benefits might be made by public revelation of this information.

The fact is, the Cost of Living Council does ask for information that it does not now release, and that it would be kept from releasing under provisions of the bill. I therefore urge adoption of my amendment.

Mr. President, I am prepared to yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, would the Senator from Texas yield to me for a question?

Mr. TOWER. Yes, indeed.

Mr. SPARKMAN. I am looking at this form to which the Senator has just referred, the one the Cost of Living Council requires to be filled out.

What does the Cost of Living Council do with that?

In other words, are they empowered to act on the basis of that information?

Mr. TOWER. Yes; the Cost of Living Council does act on the basis of that information. It is true that the Cost of Living Council acts on the basis of information that it does not release to the general public. But if all of this information were released, some of which would place businesses at a competitive disadvantage, it would allow everyone else to second guess the Cost of Living Council—that is, anyone that knew how to interpret the information.

Mr. SPARKMAN. I do not believe that anyone—and this certainly includes the distinguished Senator from Maine (Mr. HATHAWAY)—has any desire to make disclosure of any facts or figures that would constitute proprietary information. It might be harmful if it were released to the general public. I have felt that the Senator from Texas and the Senator from Maine may not be so far apart that they could not work out a compromise on this. I wish very much that it could be done because I must say, in all sincerity, it seems to me that, whereas the objective of the Senator from Maine is good, I wonder whether there is not a little danger in the manner in which this information would be handled?

Mr. TOWER. If I might respond to my distinguished chairman, we have and we did act to work out a compromise on this, but we found that we could not.

We are getting into a highly technical area. I do not imagine that any of us could very adequately define on the floor today what actually is proprietary information and what is not, because it might vary from industry to industry as to what is confidential and what is not. Some consider that proprietary information is simply patents and methods of technology and managerial techniques and that sort of thing, but I think it goes much beyond that, or it can, in terms of sensitivity of the information involved.

What I would be perfectly willing to do would be to maintain an open mind on the subject and submit it to hearings. We had no hearings on this, and there was no opportunity for heads of industry to come in and testify as to how they felt this might impact on them. There is absolutely no testimony on that. There is not one word on it. Actually, it is something that I do not think was dealt with by the administration when they came to testify before us in the open hearings on the extension of the life of the program.

Therefore, it is something that would merit our investigation to a somewhat greater extent. I think it would not only be useful now but also in future legislation, and perhaps would establish some guidelines in our own minds about what proprietary and confidential information might be.

I would prefer following that course, since we have had absolutely no testimony on this matter, certainly none from the leaders of businesses affected and none from the administration. The administration has expressed itself in opposition to the committee position and does support my amendment, but beyond that we have not taken detailed testimony from them.

Mr. SPARKMAN. I ask the Senator from Maine this question: The Senator referred to existing law relating to any Federal official disclosing the information. Does his amendment—which has been agreed to by the committee, and the language is in the bill—amount to an amendment to that existing law, and is that outside of the Economic Stabilization Act?

Mr. HATHAWAY. Yes. I say to the Senator from Alabama that does amount to a modification of section 1905, title 18, which, as I mentioned earlier, does provide that federal officials will not reveal trade secrets and other matters, including prices, costs, and profits. So it does modify that slightly.

Mr. SPARKMAN. It does amend it to that effect, to that extent?

Mr. HATHAWAY. That is correct, but only with respect to this particular act. This is a section of the Criminal Code,

which penalizes a Federal official who reveals information coming to him which is covered by this section. So the modification applies only to the Cost of Living Council's disclosing in certain instances some data that is covered by this section.

Mr. SPARKMAN. How would the Senator react to the suggestion made by the Senator from Texas, that we have a thorough hearing on this matter, so that we can definitely lay out and define the areas that neither one of us would want to trespass upon?

Mr. HATHAWAY. I have no reason not to want hearings on this matter. My only apprehension is that we would not complete our deliberations and have this amendment ready, if we finally do agree upon extension of the Economic Stabilization Act, before it expires on the 30th of April.

Mr. SPARKMAN. Of course, we are extending the act to April 3, 1974.

Mr. HATHAWAY. It seems to me that we might, in conference with the Senator from Texas and the chairman and other interested Members, sometime this afternoon, explore this matter in some detail with administration officials, to see if we could come up with a compromise before the end of the day or certainly before action has been concluded on the bill sometime tomorrow.

Mr. SPARKMAN. How does the Senator from Texas feel about this?

Mr. TOWER. I think we have gone about as far in accepting as much of it as we can—in other words, not knocking out the whole thing. Originally, the administration position was to knock it all out, and I suggested that we not go that far. I think this is about the best they feel they could accept because of the great sensitivity in this area and the fact that we simply have not held any hearings on it, and I do not think the Senate is well enough informed on it. I would be the first to confess that I am not well enough informed on it to be prepared to accept this kind of broad disclosure at the moment.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. I yield myself 1 minute.

I say to the Senator from Texas that I would be very glad to see the suggestion of the Senator from Maine carried out, of trying to work out a settlement. I agree with what has been said. I think all of us are more or less caught in the middle in this matter. I do not think we realize just how far it may go and whether or not it does go beyond what would be desirable. If some time could be taken, we could postpone this vote.

Mr. TOWER. At the moment, there does not seem to be any intermediate ground.

There is another problem: We would not be able to get any input from industry on it in the course of a few hours in the afternoon. If my amendment should prevail, I would be amenable to considering something further, if some compromise could be worked out that would restore some of what the Senator from Maine seeks to do. I would not close the door to that, and the Senator from Maine would be within his rights to offer an amendment of that character.

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

Mr. SPARKMAN. Mr. President, do I have any more time?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. TOWER. If the Senator from Texas fails, then the Senator from Maine has won his point, in any case, and the Senator from Maine probably would not be as willing to compromise with me as I would be willing to compromise with him.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I am prepared to yield back the remainder of my time.

PRIVILEGE OF THE FLOOR

Mr. TOWER. Mr. President, I ask unanimous consent that Alec Hughes and Anthony Cluff of my staff be allowed on the floor during the consideration of S. 398.

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

Mr. SAXBE. I believe that we should strive to make our dollars meaningful and to take action as required to stop pay checks from shrinking due to inflation but, in pursuing this necessary objective, we should not follow a course of action which will have the effect of throwing the baby out with the bath water. It is important that the action taken by this body be such as to not bring about what it is seeking to prevent. I am, of course, talking about the desire of some Members to go beyond the simple extension of the Economic Stabilization Act of 1970. The provision reported out by the committee which would amend section 205 of the act is extremely troublesome and I think should be avoided. First, the amendment requires that information filed under section 130.21B of the regulations of the Cost of Living Council in effect January 11, 1973 shall be made public. This is an interesting requirement in that the final determination as to what cost information shall be filed and in what detail is not in existence. The Cost of Living Council is still working on the problem as to what information should be filed. The final requirements that are imposed upon a company can cause great mischief to our economy and to our ability to encourage competition in the domestic market. We should do everything that we can to promote competition because competition is one of the strong forces working against inflation. If a manufacturer is required to publicly disclose all of his costs, including his engineering overhead and his manufacturing overhead and his general and administrative expenses, a company getting this information from the Government file will have all the ingredients necessary to forecast what his competitor's next move will be so far as setting price. This amendment would now make public to many segments of American industry information which is not now available to them and which now, under our antitrust laws, they are prohibited from obtaining directly from each other.

I am further worried that the requirements of public disclosure of the elements of costs are only required of some companies and not of others. A company whose product does not account for 5 percent or more of its gross sales revenue would not have its cost elements made available to the public. Thus, the company whose information is not made public will have a decided advantage over the company whose costs are made public. This seems inequitable and I believe, in the long run, will not work to the public interest.

I am greatly alarmed over a further implication of this provision. It would make cost information, which in the past has been highly confidential, regarding the structure of the prices of our domestic companies available to our foreign competitors while our foreign competitors would not be required to have their cost data be made available to the public. The provision provides a one-way flow of information; information to our foreign competitors all to the disadvantage of U.S. companies and, eventually, to the U.S. consumer.

While public disclosure is, on prinicpal, a worthy objective, we should recognize that in areas such as the cost elements of a manufacturer's price, public disclosure is not in the public interest because it would result in a lessening of competition.

I urge that the Economic Stabilization Act of 1970 be extended without any amendment. When used, the act served a purpose and did not create lasting problems. Amended as proposed by the committee report would be a course of action which we as a nation would soon come to regret.

Mr. TOWER. I yield back the remainder of my time.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendments of the Senator from Texas, as modified. On this question the yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Kentucky (Mr. HUDDLESTON), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Maine (Mr. MUSKIE), are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wisconsin (Mr. NELSON), and the Senator from Rhode Island (Mr. PASTORE) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr.

GRAVEL), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from Minnesota (Mr. MONDALE) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The Senator from Arizona (Mr. GOLDWATER), and the Senator from Maryland (Mr. MATHIAS) are detained on official business.

If present and voting, the Senator from Illinois (Mr. PERCY) would vote "yea."

The result was announced—yeas 43, nays 35, as follows:

[No. 44 Leg.]

YEAS—43

Aiken	Dole	Pearson
Allen	Domenici	Roth
Bartlett	Dominick	Saxbe
Bayh	Ervin	Scott, Pa.
Beall	Fannin	Scott, Va.
Bellmon	Fong	Sparkman
Bennett	Griffin	Stafford
Bentsen	Gurney	Stevens
Bible	Hansen	Taft
Brock	Hartke	Talmadge
Byrd, Harry F., Jr.	Helms	Thurmond
	Hruska	Tower
Cook	McClellan	Weicker
Cotton	McClure	Young
Curtis	Nunn	

NAYS—35

Abourezk	Haskell	Montoya
Biden	Hathaway	Moss
Brooke	Inouye	Pell
Burdick	Jackson	Proxmire
Byrd, Robert C.	Johnston	Randolph
Cannon	Kennedy	Ribicoff
Case	Long	Schweiker
Chiles	Magnuson	Stevenson
Church	McGee	Symington
Clark	McGovern	Tunney
Eagleton	McIntyre	Williams
Hart	Metcalf	

NOT VOTING—22

Baker	Hollings	Muskie
Buckley	Huddleston	Nelson
Cranston	Hughes	Packwood
Eastland	Humphrey	Pastore
Fulbright	Javits	Percy
Goldwater	Mansfield	Stennis
Gravel	Mathias	
Hatfield	Mondale	

So Mr. TOWER's amendments (No. 34) were agreed to.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I yield 3 minutes to the Senator from Florida.

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, informed the Senate that, pursuant to the provisions of section 1, Public Law 86–42, the Speaker had appointed Mr. MALLARY as a member of the U.S. delegation of the Canada-United States Interparliamentary Group, vice Mr. HARVEY, resigned.

ENROLLED BILL SIGNED

The message announced that the Speaker had affixed his signature to the enrolled bill (H.R. 4278) to amend the National School Lunch Act to assure that Federal financial assistance to the child nutrition programs is maintained at the level budgeted for fiscal year ending June 30, 1973.

Subsequently, the Acting President pro tempore (Mr. HASKELL) signed the enrolled bill.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 398) to extend and amend the Economic Stabilization Act of 1970.

AMENDMENT NO. 42

Mr. CHILES. Mr. President, I submit today, and ask unanimous consent to have printed at the end of my statement, an amendment to S. 398, the bill which would extend the economic stabilization program for another year.

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

(See exhibit 1.)

Mr. CHILES. Mr. President, my amendment seeks to reinstate rent controls essentially as they were under phase II, which ended January 11, 1973.

Since phase II there has been a wave of rent increases, and in many cases they have been unreasonable and unconscionable. Individuals and families, already heavily burdened by skyrocketing food prices, have received with dismay, if not despair, notices that their rent has taken a great leap upward.

Before January 11, the very fact that landlords knew the Internal Revenue Service was ready to listen to tenant complaints and, if need be, to take action upon them, tended to keep rent increases within reasonable bounds. With suspension of the Internal Revenue Service's enforcement powers, that healthy restraint is gone.

Dramatic rent increases, of course, hit hardest at people in the lower income brackets, and, especially, at the elderly, at people on fixed retirement incomes—the people, in short, least able to combat inflation, and least able to move here and there to take advantage of fluctuations in the rental market.

My amendment permits a 2½-percent annual increase in rent, and it continues the phase II formula of allowing additional increases to cover rising taxes and costs, as well as recovery of necessary capital improvement outlays. It provides for a rollback of rents raised since January 11. It forbids landlords to retaliate against tenants who seek protection against excessive rents, and it bars landlords from making up, through reducing services, what rent controls may deny them in the way of excessive profits.

There is another rent control measure, proposed as amendment 22 to S. 398 by Senators CASE, JAVITS, and WILLIAMS. I want to congratulate the Senators on their vigorous pursuit of this legislation, which failed in committee only by a tie vote.

However, my amendment, similar to the Case amendment in most respects, differs in one very important way: The Case proposal uses a formula of "rental vacancy rate" to limit the application of rent controls to those places, only, where there is a proven shortage of rental housing to explain rent increases. My amendment, based on the fact that complaints from citizens about severe rent increases come from many places where there seems to be a good deal of vacant rental housing available, would apply nationwide.

In considering S. 398, to extend the Economic Stabilization Act, the Senate should not neglect elements of the economy which have become unstabilized, such as the rental housing market. I urge Senators to review their mail, as I have done mine.

The rise of rents has become a nightmare, for some, since phase II—not for all, not for the homeowners, and not for those whose incomes are pegged to inflation of everything, but for lots of people who deserve better at our hands, people on depressed or fixed incomes who have not the wherewithal to buy out of the rental market. It is unfair to tell these people that if they suffer long enough, something will be done to fix everything. It will be a hollow mockery for these people if we pass an act to stabilize the economy without including in it provisions to prevent their being stabilized between a rock on the one hand, and a hard place on the other.

I urge adoption of the amendment when it is before the Senate.

EXHIBIT 1

AMENDMENT No. 42

At the appropriate place insert the following:

SEC. 2. The Economic Stabilization Act of 1970 is amended by adding the following new section:

Sec. 203a. Rent stabilization

"(a) As used in this section "rent" means the entire amount charged by the lessor to the lessee as a condition of occupancy and for the use of related facilities, including, but not limited to, charges for parking and the use of recreational facilities.

"(b) Notwithstanding any other provision of law, with respect to any lease of or implied contract for occupancy of a residence no person may charge a monthly rent which exceeds the highest monthly rent previously charged for the same residence plus—

"(1) 2.5 per centum thereof with respect to each consecutive twelve-month period beginning at the end of the preceding period of occupancy; and

"(2) the actual amount of any increase in tax, fee, or service charge levied by a State or local government after the beginning of the preceding period of occupancy (and not previously charged to any lessee) and allocable to that residence; and

"(3) an amount sufficient to compensate for necessary capital improvements and for increases in the actual cost of operation and maintenance.

"(c) In the case of any residence not leased for occupancy at any time during a forty-eight month period immediately preceding the entering into a lease of or implied contract for occupancy of such residence, the rent charged during the term of occupancy provided in such lease or implied contract shall not exceed the reasonable market value of the residence; and the rent charged during subsequent terms of occupancy shall be subject to the provisions of this section.

"(d) Any person who, pursuant to a lease or implied contract for occupancy entered into after January 11, 1973, charged and received from a lessee a rent in excess of the maximum amount permitted under this sec-

tion shall refund to the lessee the entire aggregate amount received which constitutes such an excess, or, in the alternative, shall credit such amount on a prorated basis against the lessee's future rent payments over a period not to exceed twelve months or the duration of the lease, whichever is shorter: *Provided*, That no provision of this subsection shall constitute authority for the rescission or modification of any lease or implied contract for occupancy except as to modification of the amount of rent to be charged pursuant thereto.

"(e) The provisions of this section shall apply to all residential rental units except single-family dwelling units.

"(f) Nothing in this section shall be construed to invalidate the provisions of any State or local rent control laws or regulations except to the extent that they operate to permit to be charged a monthly rent in excess of that permitted by this section.

"(g) In cases where the operation of this section would cause serious financial hardships to a lessor, exceptions therefrom may be granted by the President or his delegate upon application of any person claiming such hardship. Any interested or affected person shall be entitled to submit relevant evidence to the President or his delegate in connection with an application made by any other person pursuant to this section. Exceptions granted pursuant to this section may be made subject to such limitations as the President or his delegate may prescribe in each case.

"(h) No lessor shall take retaliatory action against any lessee who exercises any rights conferred upon him by this section or regulations issued pursuant thereto.

"(i) It shall be unlawful for any lessor to reduce services customarily heretofore provided by him to lessees, in consequence of the provisions of this section."

The PRESIDING OFFICER. The amendment will be received and printed and will lie on the table.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

The Senator from Florida has left the floor. Apparently he is not going to offer his amendment at this time. I just wanted to get that clarification for the RECORD.

I yield 30 seconds to the Senator from Missouri (Mr. EAGLETON).

Mr. EAGLETON. Mr. President, I ask unanimous consent that Mr. Jack Lewis, my assistant, be afforded the privilege of the floor for the remainder of the consideration of the bill.

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

Who yields time?

Mr. TOWER. Mr. President, I suggest the absence of a quorum and ask unanimous consent that the time be charged equally to both sides.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 38

Mr. TOWER. Mr. President, I call up my amendment No. 38 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. TOWER. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. TOWER's amendment (No. 38) is as follows:

On page 5, after line 9, insert the following:

Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"Firms subject to the prenotification and reporting requirements of subpart F of the Cost of Living Council regulations effective January 11, 1973 (6 CFR part 130, subpart F) which are engaged in a business included in group 205 (Bakery Products) or 546 (Retail Bakeries) of the 1972 Standard Industrial Classification Manual of the Office of Management and Budget may pass through in prices of products in group 205 or 546 increases in the prices of wheat and flour which have occurred since July 8, 1972, and which may continue to occur after date of enactment of this provision. Price increases under the authority of this subsection shall reflect such increases in the prices of wheat and flour only on an incurred dollar-for-dollar basis, and may be initiated as of date of enactment, subject to subsequent review and approval of the Cost of Living Council under such regulations as it may issue under authority of this subsection. Such regulations shall not impose any period of delay upon affected firms in reflecting incurred increases in wheat prices immediately in the prices of the relevant products."

Mr. TOWER. Mr. President, I modify my amendment as follows:

On line 4 of page 1, strike the word "subject" and all succeeding words thereafter through "F)" on line 7, to make the amendment read "firms which are engaged in a business included in group 205" and so on.

On page 2, line 11, after the word "wheat" insert the words "and flour".

The PRESIDING OFFICER. The amendment will be so modified.

Mr. TOWER's amendment (No. 38), as modified, is as follows:

On page 5, after line 9, insert the following:

Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"Firms which are engaged in a business included in group 205 (Bakery Products) or 546 (Retail Bakeries) of the 1972 Standard Industrial Classification Manual of the Office of Management and Budget may pass through in prices of products in group 205 or 546 increases in the prices of wheat and flour which have occurred since July 8, 1972, and which may continue to occur after date of enactment of this provision. Price increases under the authority of this subsection shall reflect such increases in the prices of wheat and flour only on an incurred dollar-for-dollar basis, and may be initiated as of date of enactment, subject to subsequent review and approval of the Cost of Living Council under such regulations as it may issue under authority of this subsection. Such regulations shall not impose any period of delay upon affected firms in reflecting incurred increases in wheat and flour prices immediately in the prices of the relevant products."

Mr. TOWER. Mr. President, I introduced this amendment on March 15 to correct a serious inequity in the operation of the Cost of Living Council program whereby many members of the baking industry find themselves on the verge of insolvency through a condition not of their own making. It is my hope that this amendment will bring relief and prevent these companies from going under.

Let me review the situation for the benefit of Senators who may not be familiar with all the details which have led up to this situation.

In June of 1972, wheat was selling at Kansas City for approximately $1.45 a bushel. In July the Russians, because of a poor wheat crop in their country, purchased, through commercial channels, some 440 million bushels of wheat for delivery by May 31, 1973. This quantity of wheat is more than the baking industry of the United States uses in a whole year and the single largest purchase ever made. Overnight, the prices of wheat and flour skyrocketed to unprecedented levels and with a rapidity which was breathtaking. At one point, in the short space of 5 months, the quoted price for wheat on the Kansas City market reached $2.71 a bushel.

Because of this rapid increase in wheat prices which are not under price controls because wheat is a raw agricultural, flour prices rose simultaneously to reflect wheat prices. As a so-called volatile product, flour is permitted to make automatic price adjustments when the price of wheat increases or decreases. Unfortunately, the bakers of the country found their flour costs escalating on an unheard of scale.

Because bakery products, such as bread, were, and continue to be under price controls, they did not have the economic freedom to adjust their prices to compensate for these higher flour costs. As is customary in the industry, baker's inventories were at the lowest point of the year because the new crop—the 1972 wheat crop—was just coming in. Consequently, bakers who normally would have made substantial purchases of flour in late August or early September found themselves coming behind the Russians and paying the considerably higher prices for flour than would have been the case in June or early July. This of course meant that the cost of making their products, particularly bread, was increased substantially. To illustrate, every 45 cents increase in the price of a bushel of wheat becomes a $1 per hundredweight increase in the price of flour. This in turn adds 68 cents of direct manufacturing costs to a 1-pound loaf of bread. By the time the baker sells this bread to the retailer that $1 increase in a hundredweight of flour has cost the baker a full additional cent on a pound of bread.

Bakers immediately had to look at their cost figures to determine what could be done to offset this increase in flour prices. Obviously, in an industry that deals in pennies in pricing its product, this was not easy. There was only one solution—a regrettable one, but one which had to be faced. The price of bakery products, including bread, had to be increased. But now bakers had to contend with Price Commission regulations then in effect

under phase II, which required companies with sales in excess of $100 million to apply to the Price Commission before any price adjustment could be made regardless of how badly needed or meritorious it was. The major baking companies in the industry immediately submitted cost justified requests for increases to the Price Commission. The Price Commission was painfully slow in acting upon any of these. Although 30 days was the prescribed time for action by the Commission, they kept requesting further information from these companies thereby putting off for months the granting of price relief.

In the baking industry no wholesale baker can command a premium for his principal loaf in the marketplace if one major competitor's price is frozen. In effect all prices are frozen if one is frozen, no matter what hardship may be thrust upon the other bakers. Thus until adequate relief is granted by the Price Commission or the Cost of Living Council to the prenotification companies, none of their smaller competitors, who theoretically could adjust their prices, have been able to make price adjustments sufficient to offset these higher flour costs.

Cost of living Council rules—which may be fair in most situations—have been unfair to the baking industry for these principal reasons:

Different bakers have hit higher costs at different points in time;

The Commission's definition of "allowable costs" throws out and disregards many of the real cost increases incurred by a particular baker; and

The "profit margin" rule has the capacity to impose a ceiling on one baker, and thus indirectly on his competitor who may be facing financial extinction.

The Price Commission was exceedingly slow in granting company approvals for price adjustments and when they were granted after deductions for the many offsets which the Price Commission seemed to thrive on, they were pitifully low and totally inadequate to meet the situation. As a result more than 200 independent bakers are today operating in the red. Many of these will never make it back unless they get immediate relief. They will fail. Three of the five largest companies in the industry are barely keeping their heads above water. For example, American Bakeries Company, the third or fourth largest in sales in the industry, with $331 million in sales in 1972 earned only $173,000, equal to one-twentieth of 1 percent on these sales. Ward Foods, which has other food operations besides bakeries, had $400 million in sales. That company lost over $16 million.

Through its trade association, the American Bakers Association, on August 23, filed on behalf of the industry with Mr. Donald Rumsfeldt, Director, Cost of Living Council, a request for a price adjustment to reflect the substantial flour increases which had occurred since the Russian purchase in July. At that time, wheat prices in Kansas City had reached $1.90 a bushel as against $1.43 in the early part of July. On September 8, this plea was denied by the Cost of Living Council. On September 21, the association appealed to Mr. C. Jackson Grayson, Jr., Chairman of the Price Commission, urging that relief be provided for the industry. By then the price of flour had moved to $2.28 a bushel and was still on the way up. On October 24, the Price Commission denied the request on the grounds that it did not entertain exception requests on behalf of a group or class of persons. On November 9, 1972, the association filed a petition for reconsideration of the earlier denial as the price continued to move up to even higher levels.

At this late date and despite the desperate circumstances of so many bakers that petition is still pending before the Cost of Living Council which has succeeded the Price Commission in phase III of the President's anti-inflation program.

Meanwhile, the plight of the bakers has become intolerable. The small baker in many, many situations who cannot make a price adjustment because his large competitors are precluded from getting an adequate price adjustment is on the verge of insolvency. It was not the intent of the Congress in giving the President authority to halt inflation that the program should result in the destruction of a substantial segment of the baking industry. Since the Cost of Living Council is apparently unwilling to take the necessary action to give the relief needed, Congress must act.

Should these companies fail it will be a sad situation in their local communities because the employees of these companies will be out of work. Small businesses will have fallen by the wayside. And, the Government will have lost several taxpayers.

We must not let this happen.

Mr. President, I ask unanimous consent to have printed in the RECORD a very fine editorial entitled "Is Phase III Too Loose? Don't Ask the Bakers," written by John A. Prestbo, and published in the Wall Street Journal on March 16, 1973.

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

IS PHASE III TOO LOOSE? DON'T ASK THE BAKERS

(By John A. Prestbo)

When Phase 3 was abruptly proclaimed back in January, a Phase controller explained that one reason for making the switch sooner rather than later was because "some distortions" were beginning to result from the price-controlling machinery. That same explanation also was offered to justify Phase 3's less stringent requirements for getting approval in advance for most price increases and wage boosts.

Except for food. Rising food prices have become such a problem for the Nixon administration that the controllers decided to keep processed and manufactured food items under Phase 2 rules; raw agricultural products remained exempt. So those distortions that bothered the controllers two months ago are proliferating in the food business—where they'll probably be around to haunt consumers long after the current dizzying rise in food prices has slackened.

Consider, for instance, the $6 billion baking industry, which supplies consumers with loaves of bread, hot dog buns and the like. That would seem to be a nice, steady business, but ironically at a time when food prices are soaring, the bulk of this industry is operating in the red.

The hardest hit are the 350–400 independent bakers who together have about $3.25 billion of the total business. Their part of the market is so fragmented, though, that they're at the competitive mercy of the six giant bakeries—ITT-Continental, Interstate Brands, Campbell-Taggert, American, General and Ward—which do $2 billion of the industry's business. (The remainder, $750 million, belongs to captive bakeries of retailers, such as A&P, Safeway, Jewel and so on.)

Under Phase 2 rules, carried over into Phase 3, the independents and the captives theoretically are free to price their products almost as they please. But under the rules of competitive reality, the six bigs in effect determine the pricing levels in each of the markets they're in. And the bigs must get approval in advance from the Cost of Living Council. They got one price increase—1.5 cents to two cents a pound of bread—late last year, but nothing since.

So, the whole industry is stuck until the bigs move. Meanwhile, costs keep rising and more and more independent bakers bite the dust. Since last July, when the Russians started buying U.S. wheat, driving up the price of grain and flour, upwards of 40 independent bakers have gone out of business, according to the Independent Bakers Association. Some of these were merged into other bakeries, to be sure, but whether merged or closed they cost more than 5,500 people their jobs.

To take a closer look at the independent's situation, visit Bake-Rite Baking Co., in Plover, Wis., a tiny (pop. 950) town just south of Stevens Point in the central part of the state. Bake-Rite is a wholesale baker that does $8 million in sales throughout Wisconsin. The chairman is Homer C. Loomens, a big, soft-spoken man whose father founded the business in 1926. He presides over a modern, efficient plant that would make the National Commission on Productivity positively drool.

And, he says, "I'm desperate."

Within the past six months, he explains, the cost of ordinary white flour has gone up 31.4%, lard has risen 30.1%, salt has climbed 11.4%, yeast 6.6% sweetener 3.1% and labor 7%. It costs Bake-Rite an average of 18.8 cents a pound to bake a loaf of bread and put it on a supermarket shelf, while the average selling price is 18.24 cents.

As a result, he says, Bake-Rite's losses are running $60,000 to $100,000 a month. The company's suppliers, many of whom have been dealing with the firm for 30 or 40 years, have started to put the squeeze on Mr. Loomens. "We are completely out of icing base and raisins now, and one of the plastic-bag makers has cut us off," he says. "We used to have 60 to 90 days to pay our flour bill, but now it arrives C.O.D. and we have to hand over a sight-draft from the bank before they'll unload the rail car." Bake-Rite is operating on a negative cash flow.

Not all of Bake-Rite's problems are caused by rising costs and price controls. The company took on a heavy debt load to build the new plant, which began operations in May of 1972—just two months before flour prices started jumping. The new plant, which doubled Bake-Rite's capacity, isn't operating at full steam. "We need more sales, but we can't afford them," says Mr. Loomens. "The more we sell the more we lose."

In an effort to forestall collapse, Mr. Loomens is trying to refinance the debt and is negotiating a possible merger with one of the few remaining independent bakers in the area. What he would really like, though, is an industry-wide price increase. "Two cents a pound would get us out of trouble," he says, "and 3 to 3.5 cents would put us on sound financial footing. But the grocery-

chain buyers are such sticklers for price that if we raised our price even a half-cent a pound, we'd lose our customers fast."

Another man who is upset by Bake-Rite's plight is Hiram D. Anderson Jr., a lawyer in Stevens Point who does legal work for the baking firm. Knowing the company's financial condition, he hasn't sent Mr. Loomens a bill for his services for a couple of years. But even more than the money his friend is losing, Mr. Anderson is angry about the implications of what the price-controllers would call this distortion.

"Under ordinary circumstances, I would sue the big bakers in Wisconsin for selling their bread below the cost of production," he says. "We have a state law prohibiting that. But here we have a federal price-controlling machinery that in effect suspends a state law on trade practices. I don't think that's right."

Another thing that bothers Mr. Anderson is that so far unfettered competition seems to have done all right for bread customers in Wisconsin. According to a survey by the U.S. Bureau of Labor Statistics, the average price of bread in Wisconsin was 19.1 cents per pound last year—the lowest of every major city surveyed for the Consumer Price Index and five cents or more below the price in the majority of cities. Several observers believe this is a direct result of the Wisconsin minimum mark-up law.

But now the price controls are squeezing out the independents that play a big part in the competitive climate, Mr. Anderson says. When Mr. Anderson becomes agitated he gets up from his chair and starts pacing, one hand in his pocket and the other gesturing, as though he were addressing a jury.

"What is happening here is that the price control laws are shielding the big and powerful bakers and I am helpless in taking them into court for selling at a loss," he says. "The price controls on bread are doing for the big conglomerate baking companies exactly what the Federal Fair Trade Laws forbid them to do—force smaller companies out of business. You can bet that when a few bigs have the market to themselves the price of bread will be a lot higher than it is now. That's the trouble with government efforts to 'help the little guy'—they end up helping the big guys instead."

The government has taken the attitude that if the bakers want a price increase they should apply for it and justify it. Yet, Mr. Anderson notes, "when the price of coffee jumped up the government quick labeled that a 'volatile commodity' and let the processors pass along increases in the price of the raw product. If wheat and flour haven't become volatile commodities in the past nine months, then I don't know what volatile means. It's just not fair."

Possible relief may come from a bill now in Congress to take off the charge of 75 cents a bushel that millers must pay for wheat they grind into flour for domestic use. That charge is passed along in the price of flour, of course, and if it were removed it could lower bread-baking costs by as much as two cents a pound. "Trouble is, they might not get around to passing that until this summer, which could be too late for some of us," says Mr. Loomens of Bake-Rite.

Bread prices, of course, are a very sensitive subject with the Nixon administration, and not just because most food prices are rising. When the government announced the big wheat deal with Russia last July, there were many protests that it would raise the price of bread. Oh, no, said the administration, not at all; they even trotted out Agriculture Secretary Butz to explain how little wheat went into a loaf of bread. Now, with the cost-price squeeze on in earnest, the controllers apparently would not like to admit to error.

But wishing it weren't so won't rescue Bake-Rite or all the other independents across the country—or any other businesses trapped in these "distortions." Maybe in addition to curtailing assaults on our landscape or repairing the bombed terrain in Vietnam, we should start worrying about preserving our economic environment.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. TOWER. I yield.

Mr. PROXMIRE. Mr. President, I have great sympathy for what the Senator from Texas is trying to do. I am very conscious, as the Senator from Wisconsin, of bakers who are in serious trouble, small bakers who are highly efficient, and who say that if some relief of the kind that Senator TOWER proposes does not pass, they are perhaps going to have to go out of business.

Can the Senator from Texas explain what would be the effect of his amendment on the price of bread? Does he have any estimate at all?

Mr. TOWER. The estimate is about 2½ cents a pound loaf.

Mr. PROXMIRE. Two and one-half cents a loaf?

Mr. TOWER. A pound loaf.

Mr. PROXMIRE. Percentagewise, that would be what? An increase of 6 or 7 percent?

Mr. TOWER. It would probably cost the average family about 15 cents a week.

Mr. PROXMIRE. My question is, How big a percentage increase is this for bread?

Mr. TOWER. Oh, that would be close to 10 percent—in the neighborhood of 10 percent. I am informed that the figure is an 8-percent increase.

Mr. PROXMIRE. One other element of this amendment bothers me a great deal. I cannot understand it. I know it is the case and I do not dispute what the Senator from Texas has been arguing, because I know that the bakers in my State, as I say, are in great trouble. After all, these small bakers are efficient and competent, they run their business in a very careful way, and yet there is a universal difficulty.

Is it true that they can only exist when there is some kind of price umbrella, an artificial high price set by the very large bakers? Without that, are they out of business?

Mr. TOWER. Bread is a highly competitive item. There are about three or four large bakers with whom the smaller regional bakers compete, and they produce a quality product. In many cases the local bakers produce a higher quality product than do the big bakers; but the big bakers, because they are larger, are somewhat more efficient in their production. They can survive on a much smaller cost-price margin than can the smaller bakers. Unless the large baker is allowed to raise his price, the small baker cannot raise his price. If he does, he is going to price himself out of the market. That is the plight he finds himself in.

It is something that did not even occur to me until the bakers came to me and said, "This is happening. This is a distortion. This is an anomaly and we are in bad shape. We cannot compete."

I think it would be a great shame to lose the small bakers and the quality product they produce.

We can take the attitude: "The heck with the small producers. Let us go to the large producers."

I say if we adopt that policy, we might as well go to the farmer and say "Let us abolish the small farmer and keep the large commercial farmer.

I think there are extremes we can carry this to, and I do not think we want to destroy small businesses in this country that have under normal circumstances proved themselves to be competitive; but under abnormal circumstances, such as in this legislation, they cannot follow the market situation. They are being placed at a disadvantage.

Mr. PROXMIRE. This amendment, as I see, has much merit. I hope I can support it. But do I understand that the amendment arises because food processors stay under phase II?

Mr. TOWER. That is right. They are under phase II, but producers of raw agricultural products are not.

Mr. PROXMIRE. Why would the same argument not apply to the food producers in the same position? If they argue that an exception is made for the bakers, why should not this apply to other producers, such as meat producers and people who process vegetables or any other food?

Mr. TOWER. Because there has not been the upward pressure on the pricing of raw agricultural products that there has been so dramatically in terms of the bakers, because of the very rapid escalation of the wheat price that resulted from a particular situation. The pressures have tended to be somewhat more gentle as to other food processors, but this is one that came virtually overnight and one they have not been able to object to.

Mr. PROXMIRE. Is this the kind of situation in which the Cost of Living Council could provide relief if they wished to do so?

Mr. TOWER. They could do it, it occurs to me, if they would.

Mr. PROXMIRE. But do they support the Tower amendment, or have they taken no position on it?

Mr. TOWER. They oppose it.

Mr. PROXMIRE. They oppose the Tower amendment?

Mr. TOWER. Yes; right.

Mr. PROXMIRE. Does the administration oppose it?

Mr. TOWER. Yes, the administration does.

Mr. PROXMIRE. I thank the Senator.

The PRESIDING OFFICER. Who yields time?

Mr. WEICKER. Mr. President.

The PRESIDING OFFICER. Does any Senator yield time?

Mr. TOWER. Does the Senator from Connecticut wish to offer his own amendment as a substitute?

Mr. WEICKER. I intend to address myself to the amendment of the Senator from Texas and also to indicate that the Senator from Indiana and I will offer a substitute.

Mr. TOWER. I will yield to the Senator for the purpose of asking a question.

The PRESIDING OFFICER. The Senator from Connecticut is recognized.

Mr. WEICKER. I would ask the Sen-

ator from Texas whether or not at the time of announcing food costs, when, in fact, the spiraling increase in costs of all items of food has reached shocking proportions, he feels it fair that this substantial increase should be passed on to the consumer?

Mr. TOWER. This is a very unusual situation in that the small bakers face extinction. It would mean considerable economic hardship that would, in effect, drive the small bakers out of the market and that market would be absorbed by the large bakers. The immediate impact would be to increase food costs over the long pull.

I can perceive that the impact might be much greater, because it will reduce substantially the baking competition in this country, and once Phase III controls expire, then, of course, the big bakers will be able to have all the market, because if this condition continues, the small baker is going to fall away very sharply indeed.

I do not think it was intended by Congress to make this claim so rigid that a number of people would have to go out of business.

Mr. WEICKER. I would not disagree with the efforts of the Senator from Texas to keep the baking industry competitive, more particularly to keep them in business.

Mr. TOWER. This is the only instance in which I have recommended or supported this kind of proposal. That is because of the peculiar situation that exists in these specific industries. That was the result of a situation over which they had no control; namely, the dramatic increase in wheat prices because of the action of the Government in selling wheat to the Soviet Union.

Mr. WEICKER. I would hope we might be able to answer the question raised by the distinguished Senator from Texas while at the same time keeping the consumer from bearing the entire cost of the solution.

I suspect this will be coming along in the way of an amendment to be offered by way of a substitute by the Senator from Indiana and myself.

The PRESIDING OFFICER. Who yields time?

Mr. TOWER. Mr. President, I am aware that the substitute amendment is to be offered. I am prepared to yield the floor for the Senators to do that at this point.

Mr. President, may I ask whether the substitute can be offered before I yield back my time, or the time has expired?

The PRESIDING OFFICER. Did the Senator from Texas hear the Parliamentarian?

Mr. TOWER. The Senator from Texas is not supposed to hear the Parliamentarian.

The PRESIDING OFFICER. It can be amended in one more degree.

Mr. TOWER. Yes, I know it can be amended. I am just asking about the time situation. Can the Senator from Indiana offer his amendment in the nature of a substitute before the Senator from Alabama or the Senator from Texas have yielded back their time or their time has expired on the amendment?

The PRESIDING OFFICER. Not until time is yielded back on the amendment.

Mr. TOWER. Mr. President, it is my understanding that there is 30 minutes on an amendment to an amendment, 15 minutes to the side.

The PRESIDING OFFICER. That is correct.

Mr. TOWER. In the event a substitute is offered to my amendment, then the time is under the control of the Senator who is offering the amendment.

The PRESIDING OFFICER. Unless he is in favor of it.

Mr. SPARKMAN. Mr. President, I have no request for a time limit, but I favor the amendment offered by the Senator from Texas.

I have had the independent bakers come to my office and talk to me about this problem. It is a real problem with which they are confronted. I see no other way to give them relief except through some such arrangement as this proposed by the amendment of the Senator from Texas. I do not care to discuss it any further. I have had no requests for time.

Mr. BAYH. Mr. President, will the Senator from Alabama yield me 1 minute?

Mr. SPARKMAN. I yield.

Mr. BAYH. Mr. President, I ask unanimous consent that Miss Judy Harris and Michael Helfer of my staff be permitted on the floor during the duration of this debate.

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

Mr. TOWER. Mr. President, I am prepared to yield back the remainder of my time.

Mr. SPARKMAN. Mr. President, I am prepared to yield back the remainder of my time.

Mr. PROXMIRE. Mr. President, will the Senator from Alabama yield for a question?

Mr. SPARKMAN. I yield.

Mr. PROXMIRE. I should like to ask the chairman about this. What bothers me about the amendment is that the purpose of the bill is to try to hold down price increases. I am very sensitive to the problems of bakers in Wisconsin and elsewhere in the country, but if we are going to adopt an amendment to increase the price of bread by 10 percent, the No. 1 fundamental food we have, and the food which people of low-income eat most, I just wonder what kind of action the Senate is taking. As I say, I have not had a chance to study the amendment. This is the first time I have seen it. It was not discussed in committee. There was no hearing on it. I am reluctant, under these circumstances, to support the amendment without getting more information than we have now. The Senator from Texas has already stated what the increase would be. I wonder whether the Senator from Alabama has any notions of his own about it, whether this could be applied to other food products.

The Senator from Texas said that bread was increasing in price due to the increase in wheat prices. That would also affect meat. The price of the beef animal is a result of the cost of corn and wheat. That is a reason for the meat increase.

Mr. SPARKMAN. I think that the wheat increase has been a special case. I understand that during 1 month the cost of wheat to the baker went up 100 percent. It has gone down some since that time, but it did go up.

Let me say to the Senator from Wisconsin that he knows I started off on this bill with the express hope that we might report a clean bill with a simple extension and let it go at that. I still think we would have been better off to let the administration have what it was asking for, that is, the right to move from a position of controls towards no controls. That is what the movement from phase II to phase III was supposed to be. But amendments have been offered and some of them, I am sure, are good, but I cannot think of any amendment that has been offered that is better than this one insofar as the independent bakers of this Nation are concerned as it is of importance to all of us.

Mr. PROXMIRE. As the chairman knows, I disagree with him. I think that phase III is a very weak program. It is evident it could not have been worse so far as timing is concerned. But it is only fair to the administration to know why they object to this particular amendment. The Senator from Texas has said that they oppose it. It would be helpful for us to know the grounds on which they oppose it. They must have had some kind of report or analysis made. They would not just say, "No," period. They must know why. What other reasons are there?

Mr. SPARKMAN. I do not know.

Mr. PROXMIRE. They have not informed the committee?

Mr. SPARKMAN. I was not privy to this amendment, although I did know about the problem that it seeks to redress.

Mr. PROXMIRE. Before we use up all the time on the bill, I wonder whether we could get a report from the Cost of Living Council or by the administration so that we would know the grounds for their opposition.

Mr. SPARKMAN. This amendment is an amendment offered by the Senator from Texas, as the Senator knows.

Mr. PROXMIRE. They did not communicate with the chairman of the committee? They did not tell you why they opposed it?

Mr. SPARKMAN. No. I have had no communication from them. I did not even know that the amendment would be offered until just before we took it up on the floor of the Senate today.

Mr. PROXMIRE. Would the Senator from Texas inform the Senate as to whether there is any reason for this?

Mr. TOWER. There was no reason given by the administration in opposing it.

Mr. PROXMIRE. No communication at all?

Mr. TOWER. I have had no communication.

Mr. PROXMIRE. I thank the Senator.

Mr. BAYH. Mr. President, will the Senator from Alabama yield a couple of minutes to me?

Mr. SPARKMAN. I yield 2 minutes to the Senator from Indiana.

The PRESIDING OFFICER. The Sen-

ator from Indiana is recognized for 2 minutes.

Mr. BAYH. Mr. President, I have here the Cost of Living Council's explanation which states that a 10- to 15-percent increase in the cost of bread would result if the Senate adopts the amendment of the distinguished Senator from Texas (Mr. TOWER).

I find myself in a rather difficult position, I suppose, where on one side I do not want to see the wheat farmer punished, but I do not see how anything else can result if we increase the cost to the consumer and go ahead with this.

I will propose a substitute for the pending amendment at the proper time. I will suggest a different way to solve the problem which the Senator from Texas (Mr. TOWER) has discussed.

A preferable approach, I submit, is to repeal the 75-cents-per-bushel charge that must be paid by every miller when he buys wheat. This charge, quite obviously, is passed on to the baker, who passes it on to the retailer, who passes it on to the housewife. So if we approach this problem with that in mind, we will find that repeal of the 75 cent levy will remove a heavy burden from the baker, which the Senator from Texas is concerned about, and I am concerned about, and do it easily but do it in a more equitable way. When we are paying 75 cents a bushel of wheat to subsidize a farm program, that means that that farm policy is being supported by the people who buy the most bread. If there is any more regressive policy than that, I do not know what it is.

Mr. PROXMIRE. As I understand the amendment of the Senator from Indiana, it would result in preventing a price increase in bread; is that correct?

Mr. BAYH. That is accurate.

Mr. PROXMIRE. But it would also result in shifting the cost or easing the price from the small baker on to the taxpayer in effect, is that right?

Mr. BAYH. It would put the financing of the present wheat subsidy program entirely on the general fund revenues instead of putting it on the backs of the bread eater, who shares that burden now.

Mr. PROXMIRE. So that the taxpayer would pay a little more for bread and the bread consumer would pay the same.

Mr. BAYH. All the taxpayers contribute substantially to the program now. My amendment would put the cost of the entire program on the taxpayer instead of on the people who buy the bread and eat the bread. The present financing scheme is highly regressive, because bread is the staff of life and poor people must spend a higher share of their income on it than rich people. We are all familiar with that. For that reason, it would be much more equitable, I say to the Senator from Wisconsin——

Mr. BURDICK. Mr. President, will the Senator from Indiana yield?

Mr. BAYH. I yield.

Mr. BURDICK. The Senator just said that the certificate would be a basis for a price increase. Is the Senator aware that this type of financing has been in the law since 1964?

Mr. BAYH. Yes. The Senator from Indiana is very familiar with that. It has only been since July of 1972 that the cost of wheat has gone up 57 percent.

Mr. BURDICK. Was the Senator apprised of any lowering of the price of bread when wheat went down?

Mr. BAYH. No, but the Senator can be absolutely certain that the price of bread will go up, if the amendment of my friend from Texas is passed. There is no question about that.

Mr. BURDICK. I am assuming that the Senator is talking about inflation today. If this was in the law in 1964 and continued since that time, it would not be a factor in causing an increase in inflation now, because it has already been in there.

Mr. BAYH. We are dealing with a specific problem brought up by the distinguished Senator from Texas (Mr. TOWER), where the small bakers are now in a particular bind. It seems to me that we are talking about two different approaches to the same problem. Whether we lessen the cost of flour to the miller, baker, and housewife, or increase it to the bread eater, that is the question. I personally would rather lessen the cost to the miller and, thus, to the small baker and housewife, and not increase it to the bread eater. You have to have one of the two. You take the solution of the Senator from Texas or that of the Senator from Indiana.

Mr. BURDICK. Does the Senator realize that the cost of wheat in a loaf of bread is about 3½ cents?

Mr. SPARKMAN. Mr. President, how much time did I yield?

The PRESIDING OFFICER. The Senator from Alabama has used 11 minutes.

Mr. SPARKMAN. I yielded to the Senator from Indiana for just a very short statement. I did not know it was going to be prolonged like this.

Mr. President, it seems to me that we are dealing here with a proposition that belongs to the Committee on Agriculture and Forestry and should be considered by that committee. This certificate, which has an impact on the bakers, as I understand, was written into the law by the Agriculture Committee. It seems to me that we are trying to solve something here that does not belong to us.

Has the amendment been offered, Mr. President?

The PRESIDING OFFICER. It cannot be offered until the time of the Senator from Alabama has been yielded or has expired.

Does the Senator from Texas yield back his time?

Mr. TOWER. I am prepared to yield back the remainder of my time so that the Senator from Indiana can offer his amendment.

Mr. SPARKMAN. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment.

Mr. BAYH. Mr. President, I send to the desk an amendment on behalf of Senator WEICKER, Senator JAVITS, Senator STAFFORD, Senator GURNEY, Senator STEVENSON, and myself, as a substitute to the amendment of the Senator from Texas.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. BAYH. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

Beginning on page 1, strike out everything through line 12 on page 2, and insert in lieu thereof the following:

Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) Section 379e of the Agriculture Adjustment Act of 1938, as amended (7 U.S.C. 1379e), is amended by inserting '(a)' before the first sentence thereof, and is further amended by striking out in the last sentence thereof the words '1971, 1972, and 1973 crops of wheat' and inserting in lieu thereof '1971 and 1972 crops of wheat.' Section 379e of the Agriculture Adjustment Act of 1938 as amended, is further amended by adding a new subsection (b), as follows:

'(b) Notwithstanding section 379b of the Agriculture Adjustment Act of 1938, as amended, or any other provision of law, processors shall not be charged for domestic wheat marketing certificates for the 1973 crop of wheat. Any amount which a producer would have realized under law from the sale of his farm domestic allotment of wheat in the absence of the changes made in this chapter by subsection (k) of the Economic Stabilization Act of 1970 shall be paid to such producer as if such changes had not been made. The Secretary of Agriculture is authorized to issue such regulations as he determines necessary to carry out this subsection, and he is further authorized to use funds of the Commodity Credit Corporation for this purpose. There is authorized to be appropriated out of the sums in the Treasury not otherwise appropriated such sums as are necessary to carry out the provisions of subsection (k) of the Economic Stabilization Act of 1970, including payments to producers necessitated by it.' "

Mr. BAYH. Mr. President, I think we pretty well discussed a moment ago what we are trying to do. We are recognizing a significant problem that is confronted by the small bakers. The Senator from Texas desires to solve this problem and so does the Senator from Indiana, as do the others who join in this amendment.

The question is, from which direction are we going to approach it? Are we going to recognize the problem and change the basis for supporting the overall subsidy program and let this support come out of the general fund, or are we going to accept the proposal of the Senator from Texas, which would, by his own admission, result in a significant increase in the cost of bread?

That is specifically what it would do. My proposal by explicit language maintains the subsidy prices for wheat at the same level they are now. It just changes the basis of who is going to pay the bill. Should the program be financed entirely by taxpayers, including corporate taxpayers, rich, poor, at the progressive level which is established in the Federal income tax, or it be financed partly by a very regressive bread tax which makes the burden depend upon how much bread you eat? It seems to me we should not choose a regressive way to finance any program.

We are confronted with this unique problem right now, necessitated by the rather dramatic increase in the cost of wheat. The per-hundred-pound of flour has gone from $5.46 to $8 since July of 1972.

It seems to me that the most equitable way to deal with this matter if we deal with it right now is to adopt the substitute of the Senator from Indiana. If the Senator from Texas wants to withdraw his proposal and let the Agriculture Committee study the ramifications of this matter, I would prefer that.

My apologies to the Senator from Georgia, who was here a moment ago, and I wanted to get a chance to call him to the floor, because I would prefer to do this in a studied manner. But since the Senator from Texas is proposing his alternative now, I think it is only fair to the Senate to provide a more equitable proposal, a progressive rather than regressive proposal, than that offered by the Senator from Texas.

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

Mr. BAYH. I yield.

Mr. YOUNG. I think it would be much more appropriate to bring up a proposal such as this before the Committee on Agriculture and Forestry. Our committee has been holding hearings for about 2 months now on the extension of the price support program. We had considerable testimony on wheat certificates. I think wheat certificates and production payments are much the same with respect to corn and feed grain and cotton. I think they should all be considered at the same time.

Bakers were represented there, and I questioned them as to whether they would reduce the price of bread, and how much, if the wheat certificate payment was removed. They testified that they would not reduce the price of bread a penny, not even a half cent.

Mr. BAYH. Did the Senator also ask the bakers what would happen if the amendment of the Senator from Texas were adopted?

Mr. YOUNG. No. I was not familiar with it at that time.

Mr. BAYH. I am convinced right now that it is a struggle to keep some of these independent bakers in business. I agree with the goal of the Senator from Texas. I think the bakers were probably being honest with the Senator from North Dakota in saying that it would be difficult, particularly for the small independents, to lower the price, even if the amendment of the Senator from Indiana and the Senator from Connecticut (Mr. WEICKER) is approved.

On the other hand, I do not think anybody will argue—indeed, the Cost of Living Council has said in unqualified terms—that if the Tower amendment is adopted, there is no question that it is going to add 3 or 4 cents a loaf to the cost of bread.

Mr. President, I ask unanimous consent that the economic stabilization program of the Cost of Living Council, of March 17, be printed at this point in the RECORD.

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

AMENDMENT TO PERMIT BAKERIES TO PASS THROUGH INCREASED WHEAT AND FLOUR COSTS

The Cost of Living Council opposes all amendments to the Economic Stabilization Act, including those that point toward increased food prices. The Council is especially concerned about modifications in the Economic Stabilization Program that would lead to immediate pressures in food prices during this critical period of wage negotiations.

The controls program has been only one factor in the forces which have operated in recent months to limit increases in bread prices. Despite higher flour costs due to the tight international supply situation for wheat beginning in mid-1972, several large bread manufacturers have not raised selling prices. This action which has served to hold down prices of bread and other bakers products reflects both the rules of the Economic Stabilization Program as well as the long run trend on the part of some firms to try to expand market shares.

However, flour costs have risen from $5.46 per hundred pounds in July 1972 to around $8.00 recently. With inventories of lower priced flour pretty well depleted, a modification at this time in existing pricing rules of the Cost of Living Council to allow an automatic pass through of flour costs would result in a substantial increase in prices paid by consumers for bread. Prices for all bakery and cereal products at retail are only 1.6 percent above the July 1972 level. An allowance for an automatic pass through of material costs is estimated to result in a 3 to 4 cent increase, or an additional 10 to 15 percent increase in prices for bread in grocery stores.

For the above reasons, the Cost of Living Council opposes the amendment.

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

Mr. BAYH. I yield.

Mr. YOUNG. Mr. President, I ask unanimous consent to have printed at this point in the RECORD the cost of a bushel of wheat for the past 20 years and the comparative price of bread for each of those years.

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

U.S. WHEAT AND BREAD PRICES, 1945–72

Year	Wheat No. 1 DNS ordinary protein Minneapolis July–June (dollar per bushel)	White bread average retail price per pound in leading cities of United States January–December (cents)
1945	1.73	8.8
1946	2.30	10.4
1947	2.70	12.5
1948	2.26	13.9
1949	2.24	14.0
1950	2.34	14.3
1951	2.42	15.7
1952	2.39	16.0
1953	2.34	16.4
1954	2.49	17.2
1955	2.35	17.7
1956	2.31	17.9
1957	2.32	18.8
1958	2.09	19.3
1959	2.17	19.7
1960	2.12	20.3
1961	2.31	20.9
1962	2.34	21.2
1963	2.24	21.6
1964	1.74	20.7
1965	1.75	20.9
1966	1.95	22.2
1967	1.65	22.2
1968	1.54	22.4
1969	1.66	23.0
1970	1.74	24.3
1971	1.53	25.0

Sources: Wheat prices, Grain Market News, AMS, USDA. Bread prices, Bureau of Labor Statistics.

Mr. YOUNG. Presently, in a loaf of bread selling for 24 cents there is only 2½ cents worth of wheat. Reducing the cost of flour to the bakers would make very little difference in the price of a loaf of bread. Not more than a half cent.

The Price Administration, I understand, made a study of this, and they said that the increase in the price of wheat as a result of the sale of wheat to Russia and other exports would only justify a half cent in the cost of a loaf of bread. That was the result of their study.

Mr. BAYH. The Senator from North Dakota presents a very good picture of the 20-year plight of the farmer, which the Senator from Indiana, having had his feet in those shoes—and still having them there—is familiar with.

But although the increase in the various costs involved today only involve a small additional return to the farmer, the cost of bread will go up 3 to 4 cents if the amendment of the Senator from Texas is agreed to.

The amendment offered by Senator WEICKER, myself, and others does not lessen the subsidy to the wheat farmer 1 penny. It prohibits a decrease. What it does is to eliminate the dependence on the certificate system. We say, "All right, if this is in the interests of all the country, then everybody ought to pay it equally. It ought to be paid at the rate that everybody including corporations pay Federal income tax. It should not be a 2 cent bread tax, which in essence is what it is now."

Mr. YOUNG. Does not the Senator think that the wheat certificate payment, which is a production payment, should be considered along with the future production payments for corn, feed grains, and cotton?

Mr. BAYH. I certainly do. And I would agree to withdraw my amendment if the Senator from Texas would withdraw his, so that the whole matter of how much the price of bread is costing to the housewife can be considered and reflected upon in the way in which the Agriculture Committee is looking at the whole farm program.

The only reason I am offering it at this time is this: As the Senator knows, we have offered this amendment and it is before the Senator's committee and is being studied. But it seems to me that we have to go one route or the other. If the Senator's committee decides to take the route of the Senator from Texas, I am willing to consider that; but right now we are foreclosed from that route.

Would the Senator from Texas care to withhold his amendment and let the Agriculture Committee consider this whole matter, and then make a determination as to which route we should pursue?

Mr. TOWER. Mr. President, in response to the Senator from Indiana, I am not prepared at this time to withhold my amendment because I believe the small bakers need immediate relief. Therefore, I think I must persist in this measure. Furthermore, at the appropriate time I intend to raise a question of germaneness on the amendment of the Senator from Indiana.

The PRESIDING OFFICER. Who yields time?

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

Mr. TOWER. I yield 3 minutes to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. YOUNG. Mr. President, undoubtedly, the bakers need some relief. Their costs have gone up, but lowering the cost of wheat to the bakers would make practically no difference, one-half cent a loaf. Maybe they should be able to increase the cost of bread because of increases in the cost of transportation, labor, and other costs. I am not quarreling with that. But the claim that lowering the cost of wheat to the baker will reduce the price of bread to the consumer is not true. This is giving a false impression to the consumers of this Nation.

Over a number of years history has shown that when the price of wheat went down—at one time $1 a bushel—it did not reduce the price of bread even one-half cent a loaf.

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

Mr. YOUNG. I yield.

Mr. BAYH. I concur in the picture the Senator is painting. If one looks at the 20-year increase in costs of those who manufacture the bread, it is up 125 to 140 percent, depending on which category one looks at. It has been a very small increase overall to the wheat producer. Mill flour went to $8 and I would bet that most of that did not go to the wheat farmer. But we have to look at the $2.50 increase in flour. It will cost about 3 cents or 4 cents a loaf to the consumer. I would rather repeal the bread tax, keep the prices where they are now and maintain the subsidy payment at exactly the same level so the wheat farmer would not be punished, but neither would the lady who goes in and buys a loaf of bread.

Mr. YOUNG. Reducing the price of wheat is not going to reduce the price of bread. There will be increases no matter what the Senator does.

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

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TOWER. Whose time are we on, my time or the time of the Senator from Indiana?

The PRESIDING OFFICER. The Senator from Texas.

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

Mr. TOWER. I yield 2 minutes to the Senator from South Dakota.

Mr. McGOVERN. Mr. President, I just want to make the point in opposition to the amendment offered by my friend, the Senator from Indiana, that there is nothing in his amendment, as I read it, that would assure that the baker is going to get flour at a reduced cost even though the entire certificate cost is paid by the Government. It might reduce the cost of the flour processing by the miller, but there is no assurance in this amendment that it would be passed on to the baker in the form of reduced flour prices.

I have an estimate made by experts in the Library of Congress indicating the impact. The 75 cents the flour producer pays as his part of the wheat certificate only adds about nine-tenths of a penny to a 1-pound loaf of bread even if the entire matter were passed on. But I do not see anything in the amendment offered by the two Senators that is going to assure the small baker that he is going to get his flour at a reduced cost.

What I do see is his great trouble in connection with the present wheat program, a program that has been on the statutes for almost 10 years. I recall in 1964 when this program was developed carefully by the Committee on Agriculture, passed in the Senate and then in the House. We argued at great length about how we could protect the wheat farmer in assuring a fair price; all additional prices should come out of the Treasury or paid out of taxes, and we arrived at this compromise plan. So I think what we are doing in this proposal is acting very hastily to undo a good program which has been working effectively and which has insured the Nation an adequate supply of wheat at a reasonable cost.

I very much hope that the Senator from Indiana and the Senator from Connecticut would not press this amendment. It will play havoc with the wheat program and it does not have a guarantee that it will produce cheaper flour for the baker.

Mr. YOUNG. Mr. President, will the Senator yield to me for 1 minute?

Mr. TOWER. I yield.

Mr. YOUNG. Mr. President, I ask unanimous consent to have printed in the RECORD certain questions and answers raised in the hearings by the Committee on Agriculture and Forestry, between the bakers and myself and other Senators.

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

Senator TALMADGE. You have got to be competitive?

Mr. ROSENTHAL. We have to stay competitive, otherwise we are out of business. If we raise our bread two cents a pound, and Continental raises three-quarters of a cent a pound, they are not going to buy our bread, they are going to buy Continental's bread, and we are out of business.

The wheat certificate of 75 cents, we would like to point out that we are not against the farmer, and the farm economy. We are in favor of the strong farmer as far as his economic health is concerned. We feel it is important to the economy of the whole country. We all can remember when the farmers could not—were getting 40 cents for a bushel wheat. Some of us can remember that the farmer could not buy a darned thing, and there it was not any good for anybody. We are not against the farmer getting——

Senator YOUNG. Mr. Chairman—if you were interested in the farmer, why do you publish big ads in the newspaper blaming farmers, and blaming the price of wheat on the cost of a loaf of bread?

Mr. KELLY. Senator, could I respond?

Senator YOUNG. The Office of Price Administration I understand said you could only justify a half cent increase because of the increase in the price of wheat.

Mr. ROSENTHAL. Well, we would beg to differ with their figures. The Department of Agriculture, the Department of Agriculture has said a lot of things.

Senator YOUNG. Well, now, Mr. Chairman——

Mr. ROSENTHAL. We are not too happy with a lot of things they have said. I think they have misled us a great deal.

Senator TALMADGE. Senator Young?

Senator YOUNG. In the calendar year 1945 the average price of a number one dark northern ordinary protein Minneapolis was $1.73, and the price of bread for that year in the leading markets was 8.8 cents a loaf, less than 9 cents a loaf.

In 1971, or take 1970, the price of wheat in the same market was $1.74, only one cent higher, almost identically the same, and yet the price of bread had risen to 24.3 cents a loaf. Why don't you tell the public that wheat is not responsible for all of your costs? You continually blame the producer. You incite the consumer against the producers.

Mr. ROSENTHAL. No, sir.

Senator YOUNG. That is a devil's trick and you have been playing it for years.

Mr. ROSENTHAL. Senator, this is the first time that I have been here, and we are not against the producers, and we are not blaming the producers. We are here to ask that the 75-cent certificate that is placed on a bushel of wheat for domestic consumption be removed.

Senator YOUNG. I think you might make a good case since the price has gone up.

Mr. ROSENTHAL. If the farmer needs support, then we are ready to support him in that these funds be made available from the general Treasury, not a tax on a loaf of bread. That is what we are trying to say.

Senator YOUNG. This ad here which appeared in the Washington Post, and I will get the date——

Mr. KELLY. Also in the New York Times.

Mr. ROSENTHAL. I have a copy here.

Senator YOUNG. Wait a minute, let me say something first.

Mr. KELLY. I am sorry. I apologize.

Senator YOUNG. I am a member of the committee and I would like to say something.

Mr. ROSENTHAL. Surely.

Senator YOUNG. In this ad you blame the sale of wheat to Russia as the cause of all of our problems. Now, the sale of wheat to Russia was handled in the same way as the sale of wheat to all other countries. We exported this year about 1.1 billion bushels, and we sold about 400 million bushels of wheat to Russia, but the sales are all handled the same. Why do you single out the sale to Russia, because I assume, you believe, that you can appeal to the consumer better that way. You would be more effective.

Mr. ROSENTHAL. No, sir.

Senator YOUNG. In inciting consumers against farmers.

Mr. ROSENTHAL. Senator, we are in favor of the export program of commodities to all foreign countries, which our position paper states. It has been down here since December. We have been down six or eight times and we have called on a lot of Senators. I believe some of our people called on you, sir, and in our position paper it definitely states we are in favor of the export program. We are in favor of supporting the farmers, and so that they can make a profit. We are businessmen. We would like to make a profit in our business. Now, we do not want to go out of business, and we also would like to see the farmer stay in business and make a profit. That is our intention and that is our position, sir.

Senator YOUNG. Would you explain then why in 1945 the price of wheat was $1.73, and the price of a loaf of bread was 8.8 cents a loaf, and then wheat in 1970 was at $1.74, almost exactly the same price, but bread had risen 24.3 cents a loaf? Why this increase? Why don't you tell the public? There are probably good reasons for this increase in costs, but why don't you tell the public?

Mr. ROSENTHAL. Senator, I bought a Plymouth automobile in 1946 for about $700. I could not buy that Plymouth today for $700.

Senator YOUNG. Yes, but looking——

Mr. ROSENTHAL. We know labor has increased, and many things have increased. We have kept the price of bread down, and we want to try to keep the price of bread down. We do not want the price of bread to rise because as far as we are concerned, it has been our experience that every time we raise the price of bread that we have been forced to do, to raise by increased costs of various kinds, we have sold less bread, and it is not good for our business and it is not good for the farmer, because we are going to use less flour when we sell less bread, so it is not to anybody's interest, and certainly not us.

Senator YOUNG. If the Congress removes this 75 cents a bushel that the millers and the baker are paying now, how much will you reduce the price of a loaf of bread?

Mr. ROSENTHAL. We will not be in the position of having to raise it.

Senator YOUNG. You would not reduce it any?

Mr. ROSENTHAL. It might. We are in a competitive market, Senator, and you know we compete with many bakers, and the super market has their own bakery with private label brands.

Senator YOUNG. I know all of that.

Mr. ROSENTHAL. If the marketplace requires competition, and in competition we would have to reduce the price, we would reduce the price.

Senator YOUNG. You cannot tell this committee then that you would reduce the price of bread any at all?

Mr. ROSENTHAL. I cannot tell what someone else's costs would be, sir.

Mr. KETT. Senator, the price of flour has gone up around $2. Now, if we get relief from the 75 cent certificate we will be back where we were before. There will be no benefit to us.

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

Mr. TOWER. I yield 3 minutes to the Senator from Alabama.

Mr. ALLEN. Mr. President, I do not believe the substitute offered by the distinguished Senator from Connecticut and the distinguished Senator from Indiana is sound. The fact sheet they have circulated with regard to the substitute states that the Bayh-Weicker subsitute will not burden the Federal budget, and "the certificate taxes now paid by bakers amount to approximately one-tenth of 1 percent of the Federal budget."

According to my arithmetic, 1 percent of the Federal budget would be $2.5 billion plus and one-tenth of that would be $250 million. So this would, according to the figures submitted by the distinguished Senators, cost the American taxpayer a quarter of a billion dollars.

The fallacy in the position of those advocating the substitute is that this would be a cost to the taxpayers of a quarter billion dollars from now on. It would be a permanent loss of revenue, whereas we are hopeful that wage and price controls will not be with us forever. So, long after the wage-price controls have passed into history, this loss to the Treasury would go on and on.

Therefore, I do not believe we need a permanent tax repeal in order to take care of a temporary situation. I do not know that I am even for the Tower amendment, but I know the substitute is not sound, and I shall vote against it.

Mr. TOWER. Mr. President, the consent agreement under which we are operating provides that all amendments must be germane. I, therefore, raise a point of order that the amendment offered by the Senator from Indiana is not germane and is, therefore, out of order.

The PRESIDING OFFICER (Mr. FANNIN). The Chair rules that it does introduce another subject, a new subject not contained in the amendment of the Senator from Texas, in that it refers to the Agricultural Adjustment Act of 1932. Therefore, the Chair sustains the point of order.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. BAYH. Is it possible for the Chair to reserve its ruling pending additional inquiries by the Senator from Indiana?

The PRESIDING OFFICER (Mr. FANNIN). Yes; the Chair will, as a matter of accommodation, be pleased to suspend until that time.

Mr. BAYH. I appreciate the courtesy of the distinguished Presiding Officer.

The Senator from Indiana is not totally oblivious to the basis of the challenge. It seems to me—and I suggest this to our distinguished Presiding Officer—if we are talking about economic stabilization, which is what this whole debate is about, then this amendment is germane. I happen to represent wheat farmers, and so does the Senator from South Dakota and everybody else here, and all of us are concerned about the cost of wheat and we are concerned about the cost of bread, and the cost of steel, and everything else. The whole purpose of our being here today is to try to get on top of prices.

I suggest to the distinguished Presiding Officer that if we have a program called the Economic Stabilization Act and if we have a Cost of Living Council, which has indicated that if the Senator from Texas' amendment is successful the cost of bread will go up 3 or 4 cents then my amendment is germane. What could be more germane than controlling food prices? Let us not kid ourselves—anybody who votes for the Senator from Texas' amendment will have to go back to the housewife and say to her, "I helped raise the cost of bread 3 or 4 cents."

The Senator from Connecticut, the Senator from Indiana, and other Senators seek to assist the Senate and seek to assist the Economic Stabilization Act Amendments of 1973 to hold down costs, and that is very much a part of what we are doing, I suggest to the distinguished Presiding Officer.

The PRESIDING OFFICER. The Chair would like to respond to the distinguished Senator from Indiana.

Germaneness has always been construed strictly in the Senate. This is a highly technical area and it seems to introduce a new subject.

Mr. TOWER. Mr. President, inasmuch as the Chair has indicated what its ruling is going to be and time on the amendment has been yielded back, I am willing to yield time on the bill to the Senator from Connecticut and to the Senator from Indiana if they wish to pursue this matter a little further.

Mr. WEICKER. Mr. President, the Senator from Connecticut would request of the Chair an answer as to whether or not, if the substitute amendment offered by the Senator from Indiana and the Senator from Connecticut is not germane, it would follow that the amendment of the Senator from Texas is likewise not germane.

The PRESIDING OFFICER. The Chair has ruled that the amendment of the Senator from Indiana is not germane. It would appear that the amendment of the Senator from Texas is germane.

Mr. WEICKER. Could the Chair distinguish, then, as to the difference in the ruling on germaneness between the amendment of the Senator from Texas and the amendment of the Senator from Indiana and the Senator from Connecticut?

The PRESIDING OFFICER. The amendment of the Senator from Texas uses terms in connection with the Economic Stabilization Act, not the Agricultural Adjustment Act.

Mr. WEICKER. I am sorry. Could the Chair respond again? I did not hear the Chair's answer.

The PRESIDING OFFICER. It is cast in language which seems to be within the terms of the Economic Stabilization Act, and not the Agricultural Adjustment Act of 1938.

Mr. WEICKER. Does the Chair indicate, then, that in order to achieve that purpose, it is not permissible to have reference to any other act or any other law?

The PRESIDING OFFICER. Not if it appears to introduce a new subject, and under the Senate precedents germaneness is strictly construed.

Mr. BAYH. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. BAYH. Could I ask the distinguished Presiding Officer to speculate on the germaneness of another amendment? Inasmuch as he points out that we are dealing with technicalities here, if, instead of adding a section to the end thereof directly amending the Agricultural Adjustment Act, as the amendment which is presently before us does, would an amendment be germane if it empowered the Cost of Living Council to repeal the 75-cent wheat certificate?

The PRESIDING OFFICER. If there was something in the bill before the Senate dealing with that subject specifically.

Mr. BAYH. Of course, part of the measure before us deals with food prices. I read section 7, subsection (c)——

The PRESIDING OFFICER. The Chair would advise the Senate that both wheat and corn are both food items, and in the past the Senate has decided that an amendment dealing with corn was not germane to a wheat act.

Mr. BAYH. Neither corn nor wheat was considered as a foodstuff under the Economic Stabilization Act?

The PRESIDING OFFICER. That is just by way of pointing out how strictly the Senate has construed germaneness.

The Chair thinks that settles the question as far as the Chair's ruling is concerned.

Mr. BAYH. One additional parliamentary inquiry. If the amendment's wording were changed to give the power to the Cost of Living Council to repeal the 75-cent certificate on wheat, if in their judgment they felt that repealing that certificate would help them maintain control on the cost of bread and furthermore on the cost of living, would not that come within the interpretation narrowly defined by the Presiding Officer?

The PRESIDING OFFICER. The Senate has determined by unanimous consent that germaneness of amendments will obtain on this bill, and the Chair then would have to study the bill to see if it were germane to anything in the bill.

Mr. BAYH. I appreciate the courtesy of the Presiding Officer.

Mr. WEICKER and Mr. PROXMIRE addressed the chair.

Mr. WEICKER. Mr. President, may I direct a question to the distinguished Senator from Texas? I do not intend to appeal from the ruling of the Chair. Did the Senator from Texas indicate he would grant time under the bill?

Mr. TOWER. I will be glad to yield time on the bill if the Senator wants to discuss it further.

Mr. WEICKER. To discuss this amendment.

Mr. TOWER. Yes.

Mr. WEICKER. Mr. President, what is the present parliamentary situation? There is a point of order by the Senator from Texas.

The PRESIDING OFFICER. The point of order of the Senator from Texas has been sustained. The question now is on the amendment of the Senator from Texas.

Mr. TOWER. Mr. President, inasmuch as all the time has been yielded back on the amendment of the Senator from Texas, I shall be delighted to yield to the Senator from Connecticut time on the bill.

How much does he wish?

Mr. WEICKER. May I have 4 minutes?

Mr. TOWER. The Senator may have 5 minutes.

Mr. WEICKER. I thank my distinguished colleague from Texas.

Unfortunately, we are now in the position of having to pass upon the amendment of the distinguished Senator from Texas rather than have a constructive and positive alternative. What the distinguished Senator from Indiana said is true. Everybody in this room who votes for the amendment of the distinguished Senator from Texas votes for a 10 to 15 percent increase in the cost of bread to the consumer—that is it.

I was hoping that the offer made by the distinguished Senator from Indiana would have been accepted, whereby the whole matter would have hung in abeyance while the Committee on Agriculture and Forestry took a careful look at the overall situation.

The fact is that the very factor referred to in the amendment of the Senator from Indiana and myself was due to go out in July 1974, in any event. However, the fact remains that at the present time—and unfortunately so—it is the farmers of this Nation that are being looked to for the tremendous increase in the cost of the price of food.

I remember when this rise commenced that everybody was pointing the finger at the local food stores and the supermarkets. The answer is not that simple. It is clear that there was a series of price rises and that along the line probably the farmer and the middleman have to share in this responsibility, and maybe in the final step along the line the food stores would have to take their part of the responsibility. However, the fact is that it is the consumer who is getting soaked.

I am not prepared at this time to say that, with all of the other price increases that have occurred, the consumer should now have to absorb a 10- to 15-percent increase in the price of bread. It will be interesting to see how many of my colleagues are willing to take that particular step.

In the amendment of the Senator from Indiana, I thought we had some manner of compromise whereby the consumer would have been protected and the farmer would have been completely protected and the general taxpayer would have absorbed this general cost, as he has in most other instances, rather than single out this one instance.

Mr. BAYH. Mr. President, if the Senator would yield to me, I would point out that our effort has been to try to reconcile the seemingly diametrically opposed factors here. What the Senator from South Dakota pointed out is that we can provide no guarantee that the general cost of bread is going down. That is true. However, we can guarantee that the 57-percent increase in the price of wheat that has occurred since July 1972 will be passed on to the householder, resulting in an increased cost of 3 or 4 cents a loaf of bread if the Tower amendment is passed.

From talking to the bakers, I find that they suggest that our approach will make it possible to keep them from increasing the price of bread. They know more about that than we do. Also, there is the fact that the milling industry is very competitive. When we take away that 75 cents milling tax, each miller will be trying to make the market competitive and will come down 75 cents.

I think the junior Senator from Alabama is accurate in pointing out that this will cost a substantial amount of money. We estimate it to be $400 million. However, the question is whether the increased cost will come from the entire spectrum of taxpayers, with each taxpayer paying an amount of tax, depending upon the corporate rate or bracket in which he finds himself, or whether the burden of the program will continue to depend in part on the number of loaves a housewife buys.

If the amendment of the Senator from Texas succeeds, and even if it does not, the present program gives that tax to the individual according to the mouths he has to supply with bread. This in practice is highly regressive, since poor people spend a higher portion of their income on bread than do rich people.

Mr. TOWER. Mr. President, I yield 2 additional minutes to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I would say, in view of the comments of the Senator from Indiana, who certainly has as many farmers in his State as he has consumers as constituents, that those Senators in this Chamber that represent farmers had best beware or there will be a hue and cry across this Nation that will bring about controls.

We are trying to find a positive way out of this matter, because it has gotten to the point where food prices have certainly gotten out of hand. Certainly the passage of this amendment might be the straw that breaks the camel's back. And the resulting demands will result in controls being put on the farmers. That is what we are trying to avoid. However, I predict that if this price rise takes place in this staple in the diet of every man and woman, indeed a demand for those controls will be forthcoming and will probably have to be met as a matter of political survival.

I would hope that we would reject the amendment of the Senator from Texas which would mean that the Committee on Agriculture and Forestry would address itself, because our amendment has been ruled out of order, to this problem of affording the relief from the "bread tax" we have sought to do in our amendment.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes on the bill.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 2 minutes.

Mr. SPARKMAN. Mr. President, I think the problem is that the Committee on Agriculture and Forestry reported out legislation sometime in the past, and it was agreed to by Congress, to the effect that the payment to be made would be the difference between parity and the market price.

Mr. YOUNG. Mr. President, the last compromise was the difference between the average cash price for wheat for that year and parity.

Mr. SPARKMAN. The Senator is correct. Then the arrangement was for them to pass on whatever that price was to the individual.

Mr. YOUNG. The Senator is correct.

Mr. SPARKMAN. And what we are trying to do here or what is being attempted to be done here is to rewrite the whole provision. And it does not belong to us. It belongs to the Committee on Agriculture and Forestry.

I was going to suggest that we ought not to be dealing with this until the Committee on Agriculture and Forestry has had an opportunity to restudy this thing and decide it.

I want to say that it is my understanding that the price of this certificate tax is apparently passed on. I do not know the mechanism of it. However, that was my understanding. I believe it is something to which the Committee on Agriculture and Forestry ought to give very serious, careful, and early consideration.

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

Mr. SPARKMAN, I yield 3 minutes on

the bill to the Senator from North Dakota.

Mr. YOUNG. Mr. President, this wheat certificate provision became a part of the law when the price supports were reduced from about $2 to $1.25 a bushel. It was assumed then that the consumer should pay a part of the cost for the reduction in the wheat support price. They only had to pay on the part of the wheat consumed in the United States. The farmer got nothing more than the market price or the support price for the rest of it.

Mr. President, I would like to read into the RECORD questions and answers appearing in the hearings before the Committee on Agriculture and Forestry on the date of February 28, 1973. It reads as follows:

Senator YOUNG. In the calendar year 1945 the average price of a number one dark northern ordinary protein Minneapolis was $1.73, and the price of bread for that year in the leading markets was 8.8 cents a loaf, less than 9 cents a loaf.

In 1971, or take 1970, the price of wheat in the same market was $1.74, only one cent higher, almost identically the same, and yet the price of bread had risen to 24.3 cents a loaf. Why don't you tell the public that wheat is not responsible for all of your costs? You continually blame the producer. You incite the consumer against the producers.

Mr. ROSENTHAL. No, sir.

Mr. President, the price of a loaf of bread had risen from 8.8 cents in the calendar year 1945 to 24.3 cents a loaf in 1970. That is almost a 300-percent increase.

Yet the price of wheat was almost exactly the same—only 1 cent difference in all those years. So this business of blaming the price of bread on the price of wheat is just not true at all.

Mr. SPARKMAN. May I say to the Senator from North Dakota, I do not know where that price comes from, but when I go to the grocery store it seems to me I pay 36 cents a loaf for bread.

Mr. YOUNG. This is an average.

Mr. SPARKMAN. I see.

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

Mr. SPARKMAN. I had yielded to the Senator from North Dakota. Let him finish.

Mr. YOUNG. I yield.

Mr. WEICKER. Mr. President, I move that the amendment of the distinguished Senator from Texas be laid on the table, and the matter contained therein referred to the Committee on Agriculture and Forestry.

Mr. PROXMIRE. Mr. President, will the Senator withhold that motion to table until I can make one point?

Mr. SPARKMAN. Wait a minute; I have not yielded.

The PRESIDING OFFICER. Does the Senator from North Dakota yield for the purpose of the motion to table?

Mr. YOUNG. I yield for that purpose.

The PRESIDING OFFICER (Mr. FANNIN). The Senator from Connecticut can move to table, or he can move to commit the bill, but he cannot move to commit an amendment.

Mr. TOWER. Mr. President, will the Senator withhold his tabling motion?

Mr. WEICKER. I withhold it.

Mr. SPARKMAN. May I ask the Senator from Connecticut a question? Did the Senator intend that as laying it on the table and killing it, or as opposing the amendment and having it referred to the Agriculture Committee?

Mr. WEICKER. I had the intention of referring this matter to the Committee on Agriculture and Forestry.

Mr. SPARKMAN. It is sometimes referred to in a different connotation. I thought that was what the Senator meant.

Mr. WEICKER. That is what I meant.

The PRESIDING OFFICER. A motion to commit an amendment is out of order.

Mr. WEICKER. What is the basis of the Chair's ruling? Because of the motion to table?

The PRESIDING OFFICER. Because a bill is before us, and this is an amendment to the bill. A motion could be made to recommit the bill, but not an amendment to the bill.

Mr. WEICKER. I understand.

Mr. SPARKMAN. Mr. President, the Senator from Connecticut can just simply file an amendment at the desk, and if it is properly drawn to belong to the Committee on Agriculture and Forestry, the Chair would refer it to the Committee on Agriculture and Forestry.

The PRESIDING OFFICER. The Senator from Alabama is correct; that can be done.

Mr. TOWER. Mr. President, I would like to yield myself 1 minute on the bill, and then the Senator from Connecticut can make his motion. Indeed, he is free to make it now if he wishes.

Mr. WEICKER. No; I withhold it.

The PRESIDING OFFICER. The Senator from Texas is recognized for 1 minute.

Mr. TOWER. I simply want to say, yes, what the Senator from Texas proposes will raise the price of bread over the short pull. It will raise that price over the short pull, but it will also keep a number of bakers in competition, so that over the long pull it will tend to keep bread prices down in this country.

What we would do here, if we fail to adopt this amendment, is run the small bakers out of business, and it was not intended that the ruling and the implementation of authority by the Price Commission should be so rigid and arbitrary that it would drive vast numbers of people out of business.

Yes, we will have to pay a couple more cents for bread. We will have to pay to keep the competitive system going in the baking industry; either that, or we will drive the little guys out, and pretty soon all we will have is the big boys, and then when the controls go off, we will be paying through the nose for bread. We will only get it from a few suppliers. If we fail to adopt this amendment, we will see bread in short supply even while phase III is going on, and the bread will not be available in the right quantity, at whatever price the Cost of Living Council sets.

Mr. President, I hope we can get a vote on this.

Mr. SPARKMAN. Mr. President, I have promised to yield some time to the Senator from Wisconsin.

Mr. PROXMIRE. Two minutes.

Mr. SPARKMAN. I yield the Senator 2 minutes on the bill.

Mr. PROXMIRE. Mr. President, no one can say, whether we pass or do not pass the Tower amendment, that the small bakers will be driven out of business. Businessmen often make that kind of complaint. What we do know, as Senator TOWER himself says, is that if we pass the amendment, we will have a 10- to 15-percent increase in the price of bread. What does the Cost of Living Council say about this? I think it is very impressive. Their statement is fairly short, and I shall read it:

The Cost of Living Council opposes all amendments to the Economic Stabilization Act, including those that point toward increased food prices. The Council is especially concerned about modifications in the Economic Stabilization Program that would lead to immediate pressures in food prices during this critical period of wage negotiations.

The controls program has been only one factor in the forces which have operated in recent months to limit increases in bread prices. Despite higher flour costs due to the tight international supply situation for wheat beginning in mid-1972, several large bread manufacturers have not raised selling prices. This action which has served to hold down prices of bread and other bakery products reflects both the rules of the Economic Stabilization Program as well as the long run trend on the part of some firms to try to expand market shares.

However, flour costs have risen from $5.46 per hundred pounds in July 1972 to around $8.00 recently. With inventories of lower priced flour pretty well depleted, a modification at this time in existing pricing rules of the Cost of Living Council to allow an automatic pass through of flour costs would result in a substantial increase in prices paid by consumers for bread. Prices for all bakery and cereal products at retail are only 1.6 percent above the July 1972 level. An allowance for an automatic pass through of material costs is estimated to result in a 3 to 4 cent increase, or an additional 10 to 15 percent increase in prices for bread in grocery stores.

For the above reasons, the Cost of Living Council opposes the amendment.

So I support the Weicker motion to lay the amendment on the table, and I hope it will be agreed to.

Mr. BAYH. Mr. President, will the Senator from Alabama yield me 1 minute?

Mr. SPARKMAN. I yield 1 minute to the Senator from Indiana.

Mr. BAYH. Mr. President, I hope all my Senate colleagues recognize that there is more than one way of skinning this cat. We recognize the plight of the small baker. That is why the Senator from Connecticut and I and several others have a bill now before the Committee on Agriculture which we believe would decrease the cost of flour on a permanent basis, and not simply during phase III.

We are going to be in the position, if the Tower amendment succeeds, of giving to the baking industry an increase of between 10 percent and 15 percent in the price of bread. I suggest that I do not know how in the world the Cost of Living Council is going to be able to deal with those in the labor force who have to buy bread which has just gone up 10 or 15 percent, and say to them, "You cannot have more than 5.5-percent increase in wages."

I say to my friends from States which

have large wheat acreages, more than Indiana, that I do not know how we are going to be able to maintain support for a wheat program 3 or 4 months after the cost of bread goes up 15 percent.

I think it is important that we realize the possible consequences of this amendment, which has a laudable purpose, but which, in my judgment, is the wrong vehicle for accomplishing that purpose.

Mr. WEICKER. Mr. President, will the Senator from Alabama yield me 1 minute?

Mr. SPARKMAN. I yield 1 minute to the Senator from Connecticut.

Mr. WEICKER. Mr. President, I intend to pursue my motion to lay on the table the amendment of the Senator from Texas. There is no question about the fact that the point he raises is correct, that a lack of competition might eventually produce an increase in price, and there is also no question about the point made by the Senator from Indiana that this particular legislation will involve an increase in the price of bread.

So I think it best that we use this time to try to resolve the various parts of the puzzle into a harmonious whole, rather than have the consumer, the baker, and the farmer all pointing the finger at each other.

For that reason, I move to lay on the table the amendment offered by the distinguished Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table.

Mr. WEICKER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER (Mr. FANNIN). The question is on agreeing to the motion of the Senator from Connecticut (Mr. WEICKER) to lay on the table the amendment of the Senator from Texas (Mr. TOWER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY), the Senator from Wisconsin (Mr. NELSON), and the Senator from Rhode Island (Mr. PASTORE) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD) and the Senator from Illinois (Mr. PERCY) are necessarily absent.

The result was announced—yeas 54, nays 26, as follows:

[No. 45 Leg.]

YEAS—54

Abourezk	Clark	McGee
Aiken	Cook	McIntyre
Allen	Cotton	Montoya
Bartlett	Dole	Moss
Bayh	Domenici	Nunn
Beall	Eagleton	Pell
Bellmon	Gurney	Proxmire
Bentsen	Hart	Randolph
Bible	Hartke	Ribicoff
Biden	Haskell	Roth
Brooke	Hathaway	Schweiker
Burdick	Huddleston	Scott, Pa.
Byrd, Harry F., Jr.	Inouye	Stafford
Byrd, Robert C.	Jackson	Stevens
Cannon	Kennedy	Symington
Case	Magnuson	Tunney
Chiles	Mathias	Weicker
Church	McGovern	Williams

NAYS—26

Bennett	Helms	Scott, Va.
Brock	Hruska	Sparkman
Curtis	Johnston	Stevenson
Dominick	Long	Taft
Ervin	McClellan	Talmadge
Fannin	McClure	Thurmond
Fong	Metcalf	Tower
Griffin	Pearson	Young
Hansen	Saxbe	

NOT VOTING—20

Baker	Hatfield	Muskie
Buckley	Hollings	Nelson
Cranston	Hughes	Packwood
Eastland	Humphrey	Pastore
Fulbright	Javits	Percy
Goldwater	Mansfield	Stennis
Gravel	Mondale	

So Mr. WEICKER's motion to lay Mr. TOWER's amendment on the table was agreed to.

Mr. GRIFFIN. Mr. President, for the information of Senators in the Chamber, I wonder whether I might——

Mr. TOWER. Mr. President, I yield to the Senator from Michigan such time as he may require.

Mr. GRIFFIN. I thank the Senator from Texas. I wonder whether I might inquire of the acting majority leader what he expects in terms of the program for the remainder of the day and tomorrow.

Mr. ROBERT C. BYRD. Mr. President, may I respond to the distinguished assistant Republican leader, by first asking whether any Senator has an amendment he would propose to call up this afternoon.

Mr. TOWER. I will call one up.

Mr. ROBERT C. BYRD. The Senator from Texas (Mr. TOWER) has one amendment. Will that amendment require a yea-and-nay vote?

Mr. TOWER. I shall ask for a yea-and-nay vote, yes.

Mr. ROBERT C. BYRD. All right. Are there any other amendments which will be called up this afternoon? Apparently not. Then, may I say to the Senate, there will be one more rollcall vote this afternoon on the amendment to be proposed by the distinguished Senator from Texas (Mr. TOWER).

There are several additional amendments which I had hoped would be called up today. To my surprise, I find that the authors of the amendments do not now plan to call the amendments up and did not initially plan to call them up until tomorrow. I do not find fault with that, except to say that no Senator was advised by the leadership that we would not go for a long day today. The whip notice last week indicated that there would be yea-and-nay votes today on amendments under a time limitation. The Senate was not in session last Friday, and Senators, I had hoped, would be ready to call up their amendments today so that we could complete action on this bill tomorrow.

In the hope that we may yet be able to complete action tomorrow, I should like now to ask unanimous consent that time on any amendment, with the exception of the so-called rent control amendment and the two amendments that may be proposed by the distinguished Senator from Wisconsin (Mr. PROXMIRE), be limited to 30 minutes rather than 1 hour, as was agreed to under the prior agreement——

Mr. GRIFFIN. That is 15 minutes to a side?

Mr. ROBERT C. BYRD. Fifteen minutes to a side, yes.

Mr. LONG. Mr. President——

Mr. STEVENS. Mr. President, will the Senator from West Virginia yield?

Mr. ROBERT C. BYRD. I yield.

Mr. STEVENS. I do not want to mislead the Senate, but I have an amendment which I may offer to the bill. If I do, I think it will be slightly controversial, so that I would not want to have someone caught in the situation of not having a time limit on the matter.

Mr. ROBERT C. BYRD. May I say to the distinguished Senator that, under the agreement, Senators in control of the time on the bill may yield therefrom to any Senator on an amendment, so the Senator from Alaska might get additional time in that way.

Mr. STEVENS. I am not going to raise the question.

Mr. PROXMIRE. It is my understanding that the Senator from Alaska has been very gracious and thoughtful in pointing out that his amendment would provide for the Alaskan pipeline. I think we should at least have the usual half hour in opposition to it.

Mr. ROBERT C. BYRD. I assume that the amendment would be germane.

Mr. STEVENS. It does not quite provide for the Alaskan pipeline, but it could authorize action related to it.

Mr. ROBERT C. BYRD. Under the order, amendments that are not germane would not be in order.

Mr. STEVENS. I understand that.

Mr. GRIFFIN. The way he has drafted it, I think it will be germane.

Mr. ROBERT C. BYRD. Very well. Would the Senator want to retain the 1 hour on that amendment?

Mr. STEVENS. I am agreeable to any time. I do not want anyone to think I am taking the Senate by surprise.

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that time on any amendment to the pending measure be limited to 30 minutes, to be equally divided as heretofore agreed to, with the

exception of the amendment to be proposed by the distinguished Senator from Alaska (Mr. STEVENS), the two amendments to be proposed by the distinguished Senator from Wisconsin (Mr. PROXMIRE), and the so-called rent control amendment.

The PRESIDING OFFICER. Is there objection?

Mr. GRIFFIN. Mr. President, reserving the right to object, again I ask the question about amendments to such amendment. Would that be reduced to 15 minutes?

Mr. ROBERT C. BYRD. No. There would be 30 minutes on an amendment to an amendment.

Mr. TOWER. This only amends the existing consent agreement as it applies to all amendments other than the two amendments of the Senator from Wisconsin, the amendment of the Senator from New Jersey, and the amendment of the Senator from Alaska; and the already agreed on times would be applicable to the amendments that have been excluded from this agreement.

Mr. ROBERT C. BYRD. The Senator is correct.

The PRESIDING OFFICER. Without objection, the request of the acting majority leader is agreed to.

Mr. ROBERT C. BYRD. I thank the Senator.

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

Mr. ROBERT C. BYRD. I yield.

Mr. LONG. Since we are not going to complete action on this bill today, this early in the session, why do we not go home and come back to work tomorrow?

Mr. ROBERT C. BYRD. We still are going to have action on the Tower amendment.

It is still the hope of the leadership that the Senate can complete action on this bill tomorrow. May I now ask if Senators will be willing to agree to cutting the time on any amendment to an amendment to 20 minutes, rather than 30 minutes, the time to be equally divided in the usual form? I make that unanimous consent request, Mr. President.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That, effective on Monday, March 19, 1973, at the close of morning business, during the consideration of S. 398, a bill to extend and amend the Economic Stabilization Act of 1970, debate on any amendment (except the so-called Pre-Notification Amendment by the Senator from Wisconsin (Mr. Proxmire), on which there will be 2 hours; the so-called Freeze Amendment by the Senator from Wisconsin (Mr. Proxmire), on which there will be 3 hours; the so-called Rent Control Amendment, on which there will be 1 hour; and the so-called Alaska Pipeline Amendment by the Senator from Alaska (Mr. STEVENS), on which there will be 1 hour) shall be limited to 30 minutes, to be equally divided and controlled by the mover of any such amendment and the manager of the bill, the Senator from Alabama (Mr. Sparkman), unless the Senator from Alabama (Mr. Sparkman) is in favor of any such amendment, then the time in opposition thereto shall be controlled by the Senator from Texas (Mr. Tower), and that debate on any amendment to an amendment, debatable motion or appeal shall be limited to 20 minutes, to be equally divided and controlled by the mover of such and the author of the amendment in the first degree, unless the author of the amendment in the first degree is in favor of the amendment, in which case the time shall be under the control of the manager of the bill: *Provided,* That, no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, That on the question of the final passage of the said bill, debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from Texas (Mr. Tower) and the manager of the bill, Mr. Sparkman: *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion or appeal.

Mr. ROBERT C. BYRD. I hope the Senator from Texas will present his amendment.

Mr. TOWER. Mr. President, I call up an unprinted amendment which is at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, strike out lines 1 through 22.

Mr. TOWER. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, the purpose of my amendment is to knock out of the committee bill a provision that authorizes the President to ration oil and gas. This is a very far-reaching power that is being granted to the President, and it seems to be supported by many who are concerned that the President is exercising too much power at the moment.

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

Mr. TOWER. I yield.

Mr. SPARKMAN. This amendment was offered in the committee by Senator MCINTYRE, on behalf of himself and Senator EAGLETON. I am asking Senator EAGLETON to manage the time on the majority side.

Mr. TOWER. Mr. President, the committee adopted an amendment which empowers the President to establish a system of priorities of use and to provide for systematic allocation of supplies of petroleum products in order to meet the essential needs of various sections of the Nation. While there can be national emergencies where Federal rationing programs become necessary, it would seem that in a peacetime period where the economic system is healthy and is capable of martialing the resources needed to meet the demands of its consumers and economic units, we should avoid the rather drastic step of rationing. The market price system has proven to be the best allocation device in history, and attempts to deal with shortages by intervening in that system with wage and price controls and/or rationing arrangements have traditionally resulted in worse shortages than were in existence to begin with.

We must face the basic economic fact of life in this country that rising market prices are the best means we have to bring about the investment needed to produce more of the goods and services that are in increasing demand. In the case of petroleum products, the best long range solution to any shortages that may develop is to allow the oil industry to earn market prices, which would be sufficient to justify extensive investment in exploration and in production facilities and to encourage investor capital to come to the firms in the industry. Rationing will effectively detract from the market price level and deter the investment that we want to encourage.

I have been somewhat amused that some of the very people who are advocating that we more narrowly proscribe the power of the President and more narrowly prescribe the power of the President in the matter of wage and price controls, and those who have argued that the President is usurping too much power from Congress and that the President acts with too broad discretion now want to give him the power to ration fuel.

A few years ago—1970, to be exact—the power to impose wage and price controls was delegated to the President by Congress, and ever since they have been griping about the way the President exercises that power. Now they propose to confer on him a very broad power indeed, and one that, quite rightfully, he does not want.

It occurs to me that some of those who are supporting the idea of rationing right now might at this point in time also declare that they will support incentive programs designed to stimulate domestic exploration and production in this country, to the extent that we will not be confronted with shortages that result from a diminution of domestic exploration and production and a growing reliance on foreign sources to meet our energy needs.

This is no way to deal with the problem—to give the President the power to ration. I think that this provision is one on which we should hold hearings. No hearings were held on this matter. This is something to which perhaps two or three committees should address themselves.

I am hopeful that the Senate will adopt this amendment, because it makes eminently good sense to me that we should do it and in the meantime bend our efforts to try to stimulate exploration, the discovery and the production of our domestic resources, so that we can retain a degree of self-sufficiency that does not force us to be so reliant on unreliable sources—and costly sources, I might add—that we are faced with fuel crises year after year after year.

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

Mr. TOWER. I yield.

Mr. STEVENS. Mr. President, I agree with the Senator from Texas. I think the authority to allocate petroleum products at this time is unnecessary. It would depress the market to the extent that it would be counterproductive.

As I indicated, I have an amendment that I would like to send to the desk and have printed. In the event that the amendment of the Senator from Texas to delete section 2 fails, I would intend

to call up this amendment. Since the section in the bill already provides that the authority is granted to the President to assure sufficient supplies of petroleum products to meet essential needs, this amendment simply says that he shall have any and all power necessary to insure the supply of petroleum products.

If we are in such a critical condition that we need to give the President unlimited authority to impose rationing, I suggest that we are then in such a situation that we need to give him unlimited authority to take any action necessary to alleviate the shortages. One of the things to be done would be to authorize the Secretary of the Interior to start the Alaskan pipeline, bringing 2 million barrels a day in 3 years to the South 48 States and making available 3 years later an almost unlimited supply of natural gas to the middle and western part of the United States.

I support the action to take this provision out of the bill because I do not think it is warranted under the conditions at this time. But if we are in such a situation that we are going to give the President wartime powers to allocate petroleum products and to ration petroleum products, we better declare war on the energy shortage and authorize the people in Alaska to start development in order to supply oil and gas to the South 48 States.

We have two-thirds of the estimated reserves of natural gas and one-third of the estimated reserves of oil, and nothing is being done now to move any of that gas or oil to the markets of this country. If we are going to recognize the shortage and give the President these unlimited authorities to ration within the shortages then, for God's sake, give him the authority to take the action to meet the needs.

I thank the Senator for yielding.

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

Mr. TOWER. I yield 4 minutes to the Senator from Louisiana.

Mr. JOHNSTON. Mr. President, when I came to this august body not too long ago, I thought the U.S. Senate always considered matters of this fundamental importance with the kind of seriousness and detail that they deserve. But as a member of the Committee on Banking, Housing and Urban Affairs, I would like to give my colleagues a little rundown on what happened on this very far-reaching amendment.

At a markup session, without one word of testimony, an amendment was offered to give the President authority to ration not just petroleum products but all scarce commodities. Someone else mentioned that that would go too far, and said, "Let's not go with all scarce commodities." Someone else said, "Let's limit it to fossil petroleum," and somebody else said, "petroleum products."

With that little consideration and no testimony we adopted an amendment to phase III which gives the President power to ration all petroleum products. It may be we need authority to ration gasoline and oil and natural gas, and all scarce commodities, but I plead with Members of this body that that is no way to adopt an amendment that is this far-reaching.

The Committee on Interior and Insular Affairs is considering the entire energy crisis with the deliberation and expertise that this body needs before acting in this kind of situation.

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

Mr. JOHNSTON. I yield.

Mr. LONG. Is it not true that a rationing measure of this sort requires the kind of cooperation you get in wartime when patriotism moves everyone to cooperate and make it work? Does the Senator know of anything of this sort that has worked in peacetime?

Mr. JOHNSTON. No. I know that measures have been adopted in national emergencies and we are trying to get them off the books. We have a committee that is trying to extricate us from all of these emergency measures that were adopted in haste. Now, we are trying to get ourselves out of them.

It seems to me if we are going to have this kind of rationing, we should do this in great depth. For instance, is it necessary to have full rationing at the gas pumps? Perhaps we might allocate between various areas of the country and be sure that one area of the country, as opposed to another area of the country, is not treated unfairly. I do not know the solution, but I do know that the Senate needs to give greater consideration to the matter than to debate it for 20 minutes and then adopt the language in haste, without the kind of artful and in-depth consideration we should have.

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

Mr. JOHNSTON. I yield.

Mr. LONG. Is it not correct that when the price of a commodity is held down this tends to retard production because if there is no profit in it or a very small profit, that makes people produce less of it? Therefore, by holding the price down the supply is reduced, when what should be done is to increase the supply when it is short. An increase in price tends to bring about an increase in supply.

Mr. JOHNSTON. That is a basic law of economics.

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

Mr. TOWER. I yield.

Mr. BIDEN. In the hearing held by the Committee on Banking, Housing and Urban Affairs initially it was stated that all scarce commodities would be determined by the President and that he could ration what he thought was a scarce commodity. I was the first to suggest, for the reason the Senator from Texas stated, that we would give the President too much authority. We amended that amendment to say petroleum products. I voted for that reluctantly, but I see no other way and I have heard no explanation on the floor of the Senate today to meet the immediate crisis that exists, even in my State of Delaware and more particularly in the New England States.

I heard the Senator from Alaska say that if we go with the pipeline, in 3 years there will be enough oil. I heard the Senators from Louisiana talk about the price of oil and that the way to insure competition and the way to insure that we will be able to get gas and oil that we need in our area would be to keep it open to a free market. I am not convinced that will meet our immediate need next month, or next winter, and for the life of this bill.

The question I have, and I would like to direct it to the manager of the bill, the Senator from Texas, is: Is my understanding correct that this, in fact——

Mr. TOWER. Mr. President, if the Senator will permit me to interrupt, I think he is against my amendment. Perhaps the manager of the bill should be the one to yield to the Senator from Delaware.

Mr. EAGLETON. I am glad to yield 2 minutes to the Senator from Delaware.

Mr. BIDEN. My question is: Would this amendment, were it to fail, and, in effect, the McIntyre amendment pass, which is to give the President the authority to ration petroleum, would that last only 1 year? Am I correct?

Mr. TOWER. The Senator is correct. The authority under the act is for a duration only from April 30 this year to April 30 next year. It would be 1 year.

Mr. BIDEN. That to me seems reason enough to support the McIntyre amendment and to vote against the Senator's amendment. Excuse me. I am giving credit to the Senator from New Hampshire. It was the amendment of the Senator from Missouri. I say that because I heard no other explanation that is going to meet the crisis within the next year. If anyone comes up with that explanation, I would be delighted to vote for the amendment of the Senator from Texas. But I would like to hear an explanation.

Mr. EAGLETON. Mr. President, section 2 of the bill was introduced for myself and Senators MCINTYRE, RANDOLPH, HART, BIBLE, MUSKIE, MONDALE, and EASTLAND. It would provide standby authority to the President to establish an Emergency Oil Allocation Board for the purpose of assuring an equitable distribution of petroleum products during periods of shortage.

There is already serious shortages of gasoline, heating oil, and diesel fuel in parts of the Midwest and Northeast. Thousands of small oil dealers and suppliers are threatened with bankruptcy because their supply of fuel has been dried up. Under this amendment, the Federal Government would be given the authority it now lacks, except in a case of declared national emergency, to assure continued competition in the petroleum industry and to see that all areas of the country receive an equitable share of the fuel available.

This amendment is not designed to favor independents over brand name dealers. Quite the contrary, it is designed to put an end to the favoritism that is so much in evidence today. I would anticipate that under any allocation system established, all dealers and suppliers—independent and brand name alike—would receive pro rata shares based on established records of past use.

The alternative to this kind of ar-

rangement would be to allow the price system and the market power of certain major interests to determine who gets what share of available fuel. That system works fine during normal times. But in a period of shortages, I submit it is a policy which would make rich men of a few and beggars of the rest of us. It could also work a fundamental change on the market structure within the petroleum industry, almost assuring the demise of the independent dealer and supplier.

Mr. President, one change was made in my amendment by the committee and I would like to clarify the thrust of that change. As introduced the amendment provided for authority to allocate scarce commodities. This was narrowed by the committee to petroleum products, including crude oil.

The Senator from Texas, in his presentation, says that rising market prices should take care of the situation. I beg to differ. I believe what would happen if this amendment is not adopted, is that there will be rising market prices, and that we may have 60 to 70 cents a gallon prices. I do not think my amendment is a total curative, but I do not believe we should leave it to the suppliers to allocate gasoline to the different parts of the country. This is of vital importance. It should not be left to the few to distribute their harvest, as far as oil and gas are concerned. Rather than enhance competition, we would find competition strangled if it is left up to the big companies to decide who gets what, where, and how much I think this is the direct antithesis of competitiveness.

It was the Senator from Texas who brought up the previous amendment with respect to bread and who said there ought to be more competitiveness in the baking industry. He seems to have changed his stripes here, in that he is not so much for competition in the oil industry.

In the last analysis, it boils down to whether we want the big oil companies to have the sole say over who gets what, and I think that is the whole question.

Mr. McINTYRE. Mr. President, will the Senator yield me 3 minutes?

Mr. EAGLETON. I yield 3 minutes.

Mr. McINTYRE. I am very happy to be able to support the Senator from Missouri in retaining in the bill a section that we were able to have included in executive session. I think my colleagues should know that I think all of us share the concern expressed by my distinguished friend, the Senator from Louisiana, now presiding (Mr. JOHNSTON). All I want to stress is that the part of the bill that I am referring to does not require any action. All it says is that in the event that we should suddenly find ourselves in an emergency, with gasoline rationing coming around the corner or upon us, then we would not want to leave it to Atlantic-Richfield, or Sunoco, or Gulf, or the big ones, as I call them, to determine how that gasoline would be rationed; that we would leave it in the hands of the President of the United States.

To buttress this, in a recent Senate committee hearing on the question of crude oil and petroleum supplies, George Lincoln, who was in charge of the Office for Emergency Preparedness at that time, stated to the subcommittee that, in the absence of a national emergency, something like martial law, there simply was no authority to control and to establish guidelines, for rationing.

If you gentlemen of the Senate do not believe there is a good and strong possibility of gasoline rationing, you should read the Washington Post of this morning. How long have we of New England and other parts of this country tried to get rid of the mandatory oil import quota system? Today in an article in the Washington Post it reveals that the administration is thinking very clearly, even intimating, that we should get ourselves prepared for it; that we are going to move to a tariff status. Which, by the way, is something that we in the consuming States have been suggesting for a long time.

I say to any administration, whether it be Democratic or Republican, if we are moving toward a tariff system, it must be on the very real rationalization that there may be gasoline rationing this summer. This section asks nothing to be done, only that standby authority be given to the President of the United States to act in the event of an emergency.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. McINTYRE. I am happy to yield as long as it is within the 3 minutes.

Mr. TOWER. Mr. President, on my own time, I ask one question. I will yield to the Senator from Wyoming.

The Senator from New Hampshire alludes to the Washington Post editorial of this morning.

Mr. McINTYRE. No; an article in that newspaper, not an editorial.

Mr. TOWER. The story had to do with the possible rationing of gas. Does the Senator know why the Washington Post says we are in this situation? Because of the artificial imposition we have had under which we have held down the price at the wellhead by law. I suppose the Senator would favor the deregulation of price at the wellhead?

Mr. McINTYRE. I do not know whether the Senator refers to an article or an editorial.

Mr. TOWER. Would the Senator support deregulation of price at the wellhead?

Mr. McINTYRE. I would not support anything that would or could not be substantiated as in the best interest of the country.

Mr. TOWER. The Senator would rather pay more for liquefied natural gas imported from Algeria?

Mr. McINTYRE. Notwithstanding the many arguments that may be made pro and con, this provision merely gives the President of the United States authority to act in the event of an emergency to ration gasoline this summer, which appears at this time to be very likely. That is all it does.

The PRESIDING OFFICER. The time of the Senator from Texas has expired. The Senator from Missouri has 6 minutes remaining.

Mr. TOWER. Mr. President, I yield time on the bill to the Senator from Wyoming.

Mr. HANSEN. Mr. President, I ask the distinguished Senator from Missouri if it is his opinion that rationing of gasoline, and whatever other things may be rationed under this provision in the bill, is going to cure the basic shortage that faces this country. I would have to say that I quite agree with the present occupant of the Chair, Mr. JOHNSTON, that if people are so simplistic as to think that simply rationing of gasoline for this year is going to cure the problem, then they have not studied it very thoroughly. The Senator from Washington (Mr. JACKSON) has been holding hearings on this matter, and I cannot agree for one moment that it is all that simple.

So I would ask the Senator if he believes that this is going to straighten everything out, and that after we do this for 1 year all the problems will disappear.

Mr. EAGLETON. Of course, I do not think all the problems will disappear. The duration of this bill is for 1 year. What I am concerned about is an emergency situation that may arise in that year. No one is certain whether we may have gasoline rationing. No one knows. If it is needed, I would much prefer having it done by the President of the United States than by the president of Standard Oil. That is all the bill does. It says that the President can allocate these resources among different parts of the Nation, so that no one area is bereft of oil while another has a surplus. I do not want to leave it to the owners of the oil companies to decide which section needs and get fuels. I prefer to leave it to the President of the United States.

Mr. HANSEN. I ask one further question. I think the Senator from Washington (Mr. JACKSON) is clearly on record as indicating his grave concern for the defense posture of this country based upon our long-term supplies. In my mind, this amendment goes in exactly the wrong direction. It does not take the approach that we are going to do something about solving the problem; it simply says we are going to try to make the best of a bad situation which results from a policy of the Federal Power Commission, among other things, that has artificially depressed prices over the last 15 years. Anybody with a basic understanding of economics could have anticipated this, as many Members here on both sides of the aisle did anticipate, precisely what happened.

Mr. EAGLETON. Mr. President, may I respond to the Senator from Wyoming on the time of the Senator from Texas?

Mr. TOWER. The Senator may respond on his own time.

Mr. EAGLETON. Mr. President, how much time on the bill is left to the Senator from Alabama?

The PRESIDING OFFICER. Fifteen minutes are left on the bill itself and 5 minutes on the amendment.

Mr. EAGLETON. Mr. President, I agree in part with the Senator from Wyoming. I commend the Senator from Washington (Mr. JACKSON) for his longstanding and continued interest in the energy problem and crisis existing in our Nation. The Senator intends to hold hearings on the long-range problem.

However, we may have a crisis this summer. I hope to God that we do not.

But, it may well be that fuel will have to be allocated before we have a comprehensive energy policy on the books. I would put more trust in Richard Nixon to allocate this supply than in the president of Gulf or Standard Oil.

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

Mr. EAGLETON. I yield to the Senator from New Hampshire.

Mr. COTTON. Mr. President, that would take us into next winter when the emergency will exist in our part of the country to get enough heat. So, let us not just be talking about next summer. We in New England are worried about next winter.

Mr. EAGLETON. Mr. President, let me respond by asking a question of the Senator from New Hampshire. What sections of the country are traditionally and historically most hit with a shortage of energy?

Mr. COTTON. One is New England.

Mr. EAGLETON. The other is the Midwest.

Mr. COTTON. Mr. President, its alright to talk about next summer but, we in New England would rather walk than freeze.

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

Mr. EAGLETON. I yield to the Senator from Maryland.

Mr. MATHIAS. Mr. President, I would like to address a question to the manager of the bill. The Senator from Texas has made a valid point. I think, in saying that this amendment does delegate to the President of the United States, whoever may occupy the office, an extraordinary power over the American economy.

I would like to ask if in the exercise of that power it is contemplated by the committee that the President should hold public hearings as President Eisenhower did, for example, on the original oil import quota determination. I think that holding public hearings is an important administrative step in taking such extraordinary power.

Mr. EAGLETON. Mr. President, under the provision as it reads, the President would have the authority, if he saw fit to exercise it, to hold public hearings. However, he would not be obligated to do so any more than he was obligated to hold hearings before announcing phase I, phase II, or phase III.

Last week the President reimposed by executive order the price controls on all oil and petroleum products. He did not then hold hearings. He did what he considered to be wise and prudent under the circumstances.

Mr. MATHIAS. Mr. President, we would have a much more responsible exercise of extraordinary power if there were hearings on the various elements that are of public interest than we would if they were not permitted to express their opinions and support.

President Eisenhower did an amazingly extraordinary job of making such a record in his first determination of this matter.

In the event the motion to table this amendment does not prevail, I hope that the Senator will consider having a requirement, not a discretionary authority, but a requirement that this be done.

Mr. EAGLETON. Mr. President, I would hope that the Senator from Maryland might reconsider that. It might very well be that circumstances would be such that the President would have to move with great speed and he might not have time in which to hold hearings. It might be necessary that he act expeditiously than the Senator from Maryland contemplates.

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

Mr. EAGLETON. Mr. President, I yield 1 minute to the Senator from Alaska.

Mr. STEVENS. Mr. President, I hope the amendment of the Senator from Texas is adopted. I sat in the other night on an off-the-record briefing of some people in the Government. I was told then that at the height of rationing in World War II, the rationing was only 20-percent effective. It would be very misleading to let the American public believe that the President could allocate supplies even if there were a shortage, that he would be able to set up the rationing procedure and the coupons and everything else that goes with it. It is entirely misleading. There is no ability to do that.

The situation can be controlled by supply and not by rationing. It can be done by making sure that the supplies are available to meet the demand.

Mr. TOWER. Mr. President, I yield 4 minutes to the Senator from Alabama.

The PRESIDING OFFICER. The Senator from Alabama is recognized for 4 minutes.

Mr. ALLEN. Mr. President, I have been somewhat amused that some of the voices which have been most outspoken in criticizing the President for his alleged usurpation of the powers of the Congress are the very voices that are now advocating enforcing more powers into the hands of the President.

There have been no hearings on this bill. It is a matter of record. There is no record that the administration requests this power to be given to it. Under the bill, under the so-called Eagleton-McIntyre amendment, there is no request for this Presidential rationing. There is no request by the industry, by the jobbers, or by the public itself.

The distinguished Senator from Maryland (Mr. MATHIAS) was talking about the President holding hearings before putting in rationing. He did not hold hearings when he set up the wage and price regulation. He did not hold hearings when he went from phase I to phase II or when he went from phase II to phase III. No hearings were held on the devaluation of the dollar.

There will certainly be no hearings held by the President if this authority is given to him.

I have in my hand some 15 letters that I have received from jobbers in Alabama protesting this Eagleton amendment. I would like to read one of them into the RECORD, and I ask unanimous consent that the remainder of the letters and telegrams be printed in the RECORD at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. ALLEN. Mr. President, this is a letter from Mr. Tom Jones, of Montgomery, Ala. He is a small jobber there. His letter reads:

DEAR SENATOR ALLEN: I have read in the paper and in the Congressional Record where the Senate Committee on Banking, Housing, and Urban Affairs has adopted an amendment to the Economic Stabilization Act which would establish priorities of use and the systematic allocation of supplies of petroleum products.

To protect my business I must oppose this amendment. Please do all you can on the floor of the Senate to see that it is referred back to the committee for public hearings.

In propcsing the amendment, Senator Eagleton states in the Congressional Record dated March 6, page 6518, that he is proposing an amendment which "would provide authority to the President to establish an emergency resource allocation board . . ." but nowhere in Amendment No. 25 is there a provision for establishing this board. The amendment as adopted by the committee, should it be passed by the Congress, would have far-reaching effects on petroleum jobbers and marketers such as myself. It could take petroleum supplies, which I have a right to under contract, and allocate them to a marketer who has been buying on the open market without contract.

It appears that the amendment proposed by Senator Eagleton was hastily conceived and poorly drafted. It leaves many questions unanswered, such as the question of price should it become necessary to allocate petroleum products from one section of the country to another.

This has far-reaching implications; and I strongly feel it should be subjected to public hearings before it is considered by the Senate. I hope you will do everything you can to have this amendment remanded back to the committee so that all interested parties after studying it can testify and get their views on the record before the Senate acts.

Your consideration of this will be deeply appreciated.

Sincerely,

TOM JONES.

Why should we attach this provision on this bill? If the distinguished Senator wants a provision of this sort, let him introduce it as a separate bill. Then there can be adequate hearings before the committee.

There have been no hearings. Certainly what I have read into the RECORD is more of a hearing than the committee conducted on this important question.

Mr. President, I support the amendment offered by the Senator from Texas.

EXHIBIT 1

BIRMINGHAM, ALA.,
March 16, 1973.

Sen. JAMES ALLEN,
Capitol Hill, D.C.:

We understand that Senator Thomas Eagleton will introduce an amendment to the Economic Stabilization Act of 1971, that will guarantee supply to the independent segment of the oil industry and which will come up for a vote in the Senate on Monday, March 19, 1973. We feel this is of critical importance to both the private brand marketer and the public consumer and we urge your vote in favor of this amendment.

Respectfully,

J. J. FRANEY,
Executive Director, the Independent Oil Man's Association of Alabama, Inc.

MONTGOMERY, ALA., *March 16, 1973.*
Senator JAMES ALLEN,
Capitol Hill, D.C.:

It is my understanding that Senator Thomas Eagleton amendment to the Economic Stabilization Act of 1971 will come up for a vote Monday, March 19, 1973. This amendment is of critical importance to the continued existence of competitive market in the retail sale of gasoline to the consumer and of critical importance to the immediate survival of independent brand marketers. I would appreciate your favorable vote on this amendment.

Your truly,

CARL BOLCH, Jr.,
OWC Limited.

FAYETTE, ALA., *March 16, 1973.*
Senator JAMES ALLEN,
Capitol Hill, D.C.:

We are informed that Senator Tom Eagleton's amendment to the Economic Stabilization Act of 1971 will come up for vote on Monday, March 19, 1973. This amendment is of critical importance to the continued existence of a competitive market in the retail sale of gasoline to the consumer, and critically important to the immediate survival of independent private brand marketers. We support that amendment and request urgently your support and favorable vote on it.

ATLANTIC OIL CO., INC.,
E. M. GRIMSLEY,
President.

JONES OIL CO., INC.,
Selma, Ala., March 15, 1973.
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR ALLEN: I understand that Senator Eagleton has proposed through an amendment to Senate Bill 398, that all available petroleum supplies be pooled and rationed from this pool.

I am very much against this amendment, since my supplier and I have attempted to live up to our contractual obligations, and I object to my share of contracted products being sold to someone else who can use that product to my competitive disadvantage.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense.

Sincerely yours,

JONES OIL CO., INC.,
ROY S. JONES, Sr.,
President.

EDDINS DISTRIBUTING CO., INC.,
Demopolis, Ala., March 14, 1973.
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR JIM: I have just been advised that Senator Tom Eagleton of Missouri has introduced an amendment to Senate Bill 398 which is proposing that the available supply of Amoco gasoline be placed in a pool and rationed with all members of the industry.

I cannot conceive of anything as ridiculous and absurd to take away from me for the benefit of my competitors.

I have been in the gasoline business for 43 years of which 35 years have been with American Oil Company, and one of the big advantages being a jobber for American Oil Company is the fact that we had the only premium white gas in the United States. It has cost the company tremendous sums to build these refineries and be prepared to take care of their customers.

I hope that you will do everything in your power to defeat this, and because there is no justice in it.

For many years, the independents have had a tremendous advantage over the branded jobber, and now that our suppliers are cutting down on them, Senator Eagleton would like to take from the rest of us and give to them. It is simply following the same old pattern that is followed by most of the "Washington gang".

Sometimes I sit down here and wonder if there is any way in the world for our country to exist for any longer of time under our present form of government. Ninety percent of the senators and congressmen have been passing every act on what they could give away to get votes.

* * * * *

ALABAMA OIL CO.
OF MORGAN COUNTY, INC.,
Decatur, Ala., March 13, 1973.
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR ALLEN: I am writing you to let you know that we of the Alabama Oil Company oppose the thing that Senator Eagleton of Missouri is proposing by an amendment to Senate Bill 398.

We and our Supplier have attempted to live up to our contractual obligations, and we object to our share of contracted products being sold to someone else who can use that product to our competitive disadvantage.

We know that this would seriously and adversely affect Amoco's supply of gasoline and other petroleum products to us as an Amoco Jobber. This of course then could jeopardize our investments we have in equipment and property.

Senator Allen, we are not opposed to the extension of the Economic Stabilization Act of 1970, but we are opposed to the extension of a supply windfall to other people at our expense.

Please give us your help to defeat this Amendment to Senate Bill No. 398.

Thank you,

ROY B. ODOM.

GLEN JORDAN PETROLEUMS, INC.,
Daphne, Ala., March 14, 1973.
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR ALLEN: Please allow me this opportunity of expressing to you my opposition to the Amendment to Senate Bill No. 398 which will make the petroleum industry subject to allocation of supplies. My supplier and I have attempted to live up to our contractual obligations, and I object to my share of contracted product being sold to someone else who can use that product to my competitive disadvantage.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense.

Thank you for any consideration you might give to my feelings in this matter.

With kindest personal regards.

Sincerely yours,

H. G. JORDAN, *President.*

DEAN OIL CO.,
Cullman, Ala., March 15, 1973.
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SIR: I am opposed to the Amendment to Senate Bill 398 which will make the petroleum industry subject to allocation of supplies. I object to my share of contracted product being sold to some one else who can use that product to my competitive disadvantage.

This is just not the American way of doing business. Never in my life have I heard of anything as preposterous as this bill.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense.

Yours truly,

AUSTIN DEAN,
Dean Oil Co.

E. S. WRIGHT, DISTRIBUTOR,
Red Bay, Ala., March 13, 1973.
Hon. JAMES B. ALLEN,
New Senate Office Building, Washington, D.C.

DEAR SENATOR ALLEN: I am opposed to the Amendment to Senate Bill 398 which will make the petroleum industry subject to allocation of supplies.

My supplier and I have lived up to our obligation price-wise and I do not feel like it would be fair to take my allocation of gasoline and let my competitors have it to cut the price and keep the petroleum industry in a turmoil.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense.

Yours very truly,

E. S. WRIGHT.

LAMAR COUNTY DEMOCRATIC
EXECUTIVE COMMITTEE,
Sulligent, Ala., March 13, 1973.
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR: I wish to take this opportunity to express my opposition to the Amendment to Senate Bill 398 which will make the petroleum industry subject to allocation of supplies.

My suppliers and I have attempted to live up to our contractual obligations, and I object to my share of contracted product being sold to someone else who can use that product to my competitive disadvantage.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense such as proposed by Senator Eagleton of Missouri.

I consider this matter to be of the utmost importance to myself and the customers I serve.

Thank you for past favors and hope to see you in the near future.

Sincerely yours,

JAMES H. MADDOX,
Chairman, Lamar County Democratic Executive Committee.

STERLING OIL CO., INC.,
Greenville, Ala., March 14, 1973.
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR: I am opposed to the Amendment to Senate Bill 398 which will make the petroleum industry subject to allocation of supplies. My supplier and I have attempted to live up to our contractural obligations, and I object to my share of contracted product being sold to someone else who can use that product to my competitive disadvantage.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense.

Yours very truly,

STERLING OIL CO., INC.,
STIRLING HAMILTON, Sr.,
President.

CRENSHAW FOR WALLACE COMMITTEE,
LUVERNE, ALA., *March 13, 1973.*
Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR: I am writing to you with regard to the amendment to Senate Bill 398 which, I understand, will place the petroleum industry under allocation of supplies. I am

opposed to this amendment and object to my share of contracted product being sold to someone else and then that competitor use the product to my detriment. So far as the extension of the Economic Stabilization Act of 1970, we are not opposed to this but we are opposed to the extension of a supply windfall to other people at my expense.

As you know, we are the American Oil Jobber here in Luverne and have been with them since about 1922. There is simply no justice whatever in the proposed amendment to SB 398 and your efforts toward defeating it as it now stands will be more than appreciated.

I had the opportunity this past week to talk at some length to your ex-secretary, Mrs. Jean Robinson and she and I had a long talk about you . . . all good.

We hope that you will have the opportunity to be in our part of the state again soon and look forward to seeing you.

Sincerely,

CRENSHAW FOR WALLACE COMMITTEE.
J. D. SMYTH, JR.,
Coordinator.

ERNEST W. RUSSELL & SONS,
LAPINE, ALA., *March 13, 1973.*

Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

HONORABLE ALLEN: I am opposed to the amendment to Senate Bill 398 which will make the petroleum industry subject to allocation of supplies. My supplier and I have attempted to live up to our contractual obligations, and I object to my share of contracted product being sold to someone else who can use that product to my competitive disadvantage.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense.

Thanks.

Respectfully,

ERNEST W. RUSSELL.

PELL CITY OIL CO.,
Pell City, Ala., March 13, 1973.

Hon. JAMES B. ALLEN,
U.S. Senate, New Senate Office Building, Washington, D.C.

DEAR SENATOR ALLEN: Recently I have been advised of a proposed amendment to Senate bill 398 by Senator Eagleton of Missouri.

I would like to make my emphatic opinion on this amendment known to you.

I am opposed to the amendment to Senate Bill 398 which will make the petroleum industry subject to allocation of supplies. My supplier and I have attempted to live up to our contractural obligations, and I object to my share of contracted product being sold to someone else who can use that product to my competitive disadvantage.

In my opinion this amendment is contrary to our free enterprise system and would be a step to eliminate better products and pricing through competition.

I am not opposed to the extension of the Economic Stabilization Act of 1970, but I am opposed to the extension of a supply windfall to other people at my expense.

I would appreciate your consideration on this amendment and look forward to your reply.

Yours truly,

M. B. LAWLEY.

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from Oklahoma.

Mr. BELLMON. Mr. President, I would like to commend the distinguished Senator from Texas for offering his amendment. I agree completely that the solution lies in our taking steps that would assure that we have an adequate supply of energy so that there will not be a crisis.

It has been stated in testimony before the committee that we have a supply of between 500 and 1,000 years in the ground in this country which we have not been able produce.

By adopting the pending amendment, we delay the solution to the question of meeting the energy needs of this country.

The answer to the problem is an economic one. By putting in rationing, we simply postpone the day when we may have to face the economic reality of the difficulty of producing the energy available in this country. If we do this artificially, we will have immobilized the industry. And if we continue to do this, we will get in a worse and worse position.

Support for rationing is, to my mind, an admission of failure of our present energy policy and position. We ought to be taking steps to correct and change that policy, and not take steps to continue it in operation. Debating this bill merely postpones facing up to the problem. Sooner or later we are going to have to face these facts, and I believe we ought to face the facts, rather than waiting a year. I believe if we take action, we can avoid the need for rationing, and I believe if we have these provisions in the law we are simply going to postpone taking action.

Again I commend the Senator from Texas, and support his amendment.

[Mr. HANSEN assumed the chair as Presiding Officer.]

Mr. TOWER. Mr. President, I yield myself 1 minute on the bill.

The Senator from Missouri says the provisions of the bill include crude oil. It is not the understanding of the members of the committee that it included crude oil, but only petroleum products. I ask the Senator from Louisiana if that was not his understanding, because I believe he was in on the conclusion.

Mr. JOHNSTON. The fact of the matter is that the committee did not understand what it includes and what it does not include. I confess, as a member of the committee, that I did not understand either. I would say, based on the language, that it does not include crude oil, because crude oil is not a product, but a resource.

Mr. TOWER. It is a raw material.

Mr. JOHNSTON. A raw material. I do not know whether it would include natural gas, or liquefied natural gas; all of which, to me, is an excellent example of the haste with which the language was drawn.

I say the place to consider this is in a committee which can consider the language and refine it, and get exactly what we need, whether we need natural gas or whether we need crude oil. I would think any rationing scheme ought to include crude oil, because there is a real shortage in some refineries which cannot get crude oil today.

Let us go to the committee, and give this bill the kind of consideration and draftsmanship it ought to have.

Mr. TOWER. Mr. President, if all time has expired——

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

The PRESIDING OFFICER. The Senator has 1 minute.

Mr. EAGLETON. I yield myself 5 minutes on the bill.

I would like to ask the Senator from New Hampshire (Mr. MCINTYRE), who offered this amendment on my behalf in the Banking, Housing and Urban Affairs Committee, was it his impression that the words "petroleum products" included crude oil?

Mr. McINTYRE. It certainly was. It originally started out as all commodities, and after discussion we agreed to restrict it to all petroleum products.

Mr. EAGLETON. All petroleum products?

Mr. McINTYRE. Right.

Mr. EAGLETON. But that was to be an inclusive term, to distinguish petroleum products from other nonpetroleum products?

Mr. McINTYRE. That is right.

Mr. EAGLETON. And crude oil is a petroleum product?

Mr. McINTYRE. I would hope so.

Mr. EAGLETON. Mr. President, I yield 3 minutes to the Senator from New Hampshire.

Mr. McINTYRE. Mr. President, it seems to me that those who would seek to strike from the bill this amendment offered by myself on behalf of the Senator from Missouri in committee would take us far afield.

There is no question here, to answer the Senator from Alabama, that we are trying to give away to the President certain prerogatives that all of us have beaten our breasts about over the past 10 years or so. We simply recognize that an emergency may occur. In fact, an emergency has been declared by the oil companies themselves, with a possible shortage of gasoline. The administration has mumbled about it. So it seemed very apropos that there be something in the bill to cover this emergency situation.

For example, if Senators are wondering about who is going to control the rationing, let me say that one of the principal truckers of the Northeast, St. Johnsbury Trucking Co., has been notified by its supplier, Mobil, that after March 31 no more diesel oil and gasoline will be allowed to it.

St. Johnsbury Trucking Co. is a very sizable trucking concern in the Northeast and New England. It has been told there will be no more after March 31 of this year.

So we already have the question of scarcity. I again want to emphasize to my colleagues in the Senate, do not be led astray by these arguments that we are giving up authority to the President, that we are diminishing our own standing. Actually what we are doing is trying to put in a stopgap measure.

I have heard certain remarks indicating that perhaps the President would not be fair in this, or go about doing this thing in a proper fashion. It seems to me me that granting Presidential authority is the correct course to put this question of rationing and allocation, to be fair to all concerned. The Office of Emergency Planning normally, in cases of emergency, has this authority. The Office of Emergency Planning functions directly under the President.

So, again, this may never come into being. We may not have a shortage, and I hope we do not. But certainly this part of the bill passed by the committee in executive session is a good part of the

bill, and the amendment of the Senator from Texas should be defeated. I request unanimous consent that the letter I referred to from the St. Johnsbury Trucking Co. be placed in the record at this point and I thank the Senator from Missouri.

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

ST. JOHNSBURY TRUCKING CO., INC.,
February 26, 1973.

Brig. Gen. GEORGE A. LINCOLN, USA (ret.),
Director, Office of Emergency Preparedness, Washington, D.C.

DEAR GENERAL LINCOLN: St. Johnsbury Trucking Company is a publicly held, general commodity motor common carrier carrying approximately 40,000 shipments a week for approximately 25,000 customers a week in the ten northeastern states of our country, and also handles shipments on an interline basis going to various parts of the country and the world. Ninety-nine per cent of our shipments are less than truckload shipments with our freight consisting of all kinds of goods, including large amounts of hospital supplies, medicines, foodstuffs, and including large amounts of perishable foods, industrial goods, consumer merchandise and, generally, everything that the nation uses in our daily existence. We operate twenty-nine terminals.

We are faced with an emergency which could be disastrous to our customers, the general public. Our company has a written agreement with Mobil Oil Corporation which protected the price of fuel until the end of February 1973. The agreement stated, however, that they would bid for our business after February 1973, but that St. Johnsbury could refuse the product if the price was not agreeable. They have, however, written us that they do not want to continue to bid to provide product to our corporation. They explain that the reason for this is that they have no oil or gasoline to give us. We have over 1,000 power units and must have, to survive and serve the public, a source of fuel for our vehicles.

Our company has attempted, and is attempting, to find another supplier of petroleum products. We have been unsuccessful so far. I have ordered our attorneys to contact Mobil Oil, so that Mobil Oil would not shut off our supply and stop our company from functioning and serving the public. Upon our taking this action, Mobil Oil stated that they would supply us through March, but they have not agreed to honor their commitment to continue to supply us for any definite period after March 1973. Mobil takes the position that we must find another source of supply.

Mobil Oil did have the product to provide us when pressed. We want Mobil Oil to supply us for the next year, and feel that we have been a good customer who pay our bills on time and have an excellent reputation in all respects.

In addition, Mobil Oil is for the period of extension, until the end of March, raising the price of fuel—27.2% for diesel fuel and 32.0% for gasoline. This appears to be beyond the Phase 3 guidelines.

If we cannot find a supplier, and it appears at this time that we can not, our company would have to cease operating.

Can you advise me as to how to proceed, or what can be done by your office to force Mobil Oil to continue to supply product to our company? It is our opinion that if they are short of fuel they should cut down each customer's supply proportionally, and not cut some of their customers out completely. Would you please advise me on this emergency? It is, as you can see, very important to the general public and to all concerned.

Sincerely,

MARTIN N. ZABARSKY.

Mr. EAGLETON. Mr. President, I yield myself 2 minutes, to read into the RECORD a letter from the Society of Independent Gasoline Marketers of America, an organization of independent companies known as SIGMA, which represents the small gasoline dealers. This letter, addressed to all SIGMA members, reads as follows:

This amendment is of critical importance to the continued existence of a *competitive market* in the retail sale of gasoline to the consumer and critical importance to the immediate survival of independent private brand marketers.

SIGMA supports this amendment and asks that you wire or phone your congressmen immediately to enlist their support and favorable vote on this amendment.

Both the senator from Alaska (Mr. STEVENS) and the Senator from Texas (Mr. TOWER) have said on repeated occasions that this situation should be controlled by supply. The quesiton is, Who has the supply, and how is it going to be allocated? The supply is in the hands of the big oil companies, and if there is a shortage, then they have a life and death power over the independent oil dealers, and also a life and death power over the Midwest and New England, by controlling how much energy supplies will be given to those parts of the Nation.

I do not think they shoud have that life and death power. It is my judgment that it belongs in the hands of the President of the United States.

I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. JOHNSTON). All time having expired, the qustion is on agreeing to the amendment of the Senator from Texas (Mr. TOWER). On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Mississippi (Mr. EASTLAND), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Alaska (Mr. GRAVEL), the Senator from South Carolina (Mr. HOLLINGS), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Maine (Mr. MUSKIE) are necessarily absent.

I further announce that the Senator from Minnesota (Mr. HUMPHREY the Senator from Wisconsin (Mr. NELSON), and the Senator from Rhode Island (Mr. PASTORE) are absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Minnesota (Mr. HUMPHREY) would each vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senators from New York (Mr. BUCKLEY and Mr. JAVITS), the Senator from Arizona (Mr. GOLDWATER), the Senators from Oregon (Mr. HATFIELD and Mr. PACKWOOD), and the Senator from Illinois (Mr. PERCY) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD) would vote "nay."

The result was announced—yeas 30, nays 50, as follows:

[No. 46 Leg.]

YEAS—30

Abourezk	Ervin	Montoya
Allen	Fannin	Nunn
Bartlett	Gurney	Scott, Pa.
Bellmon	Hansen	Scott, Va.
Bennett	Hartke	Stevens
Brock	Helms	Talmadge
Byrd, Harry F., Jr.	Hruska	Thurmond
	Huddleston	Tower
Cook	Johnston	Young
Curtis	Long	
Domenici	McClellan	

NAYS—50

Aiken	Eagleton	Pearson
Bayh	Fong	Pell
Beall	Griffin	Proxmire
Bentsen	Hart	Randolph
Bible	Haskell	Ribicoff
Biden	Hathaway	Roth
Brooke	Inouye	Saxbe
Burdick	Jackson	Schweiker
Byrd, Robert C.	Kennedy	Sparkman
Cannon	Magnuson	Stafford
Case	Mathias	Stevenson
Chiles	McClure	Symington
Church	McGee	Taft
Clark	McGovern	Tunney
Cotton	McIntyre	Weicker
Dole	Metcalf	Williams
Dominick	Moss	

NOT VOTING—20

Baker	Hatfield	Muskie
Buckley	Hollings	Nelson
Cranston	Hughes	Packwood
Eastland	Humphrey	Pastore
Fulbright	Javits	Percy
Goldwater	Mansfield	Stennis
Gravel	Mondale	

So Mr. TOWER's amendment was rejected.

Mr. EAGLETON. Mr. President, I move that the vote by which the amendment was rejected be reconsidered.

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. EAGLETON. Mr. President, I have an amendment at the desk and ask that it be stated.

The PRESIDING OFFICER (Mr. JOHNSTON). The amendment will be stated.

The legislative clerk read as follows:

On page 2, line 20, after the word "products" insert the word: "including crude oil"

Mr. EAGLETON. Mr. President, I will spend just 1 minute on the amendment and yield myself 1 minute for that purpose.

During debate on the previous amendment, some question was raised as to whether the present language in the bill, on line 20, included "crude oil." I asked the distinguished Senator from New Hampshire (Mr. MCINTYRE), who guided the amendment through the Committee on Banking, Housing and Urban Affairs, as to whether petroleum products, in his opinion, did include crude oil. He said that most certainly it did. My understanding also was that it did, but in order to clarify the situation and make it perfectly clear, to use the President's favorite phrase, this amendment would make it beyond a peradventure of a doubt.

Mr. TOWER. Mr. President, I yield myself such time as I may require to say that I will oppose the amendment but I shall not pursue any discussion of

it, because I know that I am about to be "had." [Laughter.]

I yield back the remainder of my time.

Mr. EAGLETON. I yield back the remainder of my time.

The PRESIDING OFFICER. All time on this amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Missouri (Mr. EAGLETON).

The amendment was agreed to.

ENERGY CRISIS

Mr. DOLE. Mr. President, I recently called the Senate's attention to the serious shortages of crude oil supplies and refined petroleum products, especially in the great agricultural area of the Midwest. These problems pose a serious threat to a broad section of the economy and would be serious, in any event;

However, they take on an even greater significance when it is realized that some of the most important links in our free enterprise system are being hit first and hardest.

Independent petroleum refiners, oil jobbers, and independent service station operators are all caught in a major supply shortage squeeze. The independent refiners cannot obtain enough crude oil to operate at capacity. Seven independent refineries in Kansas were recently reported to be producing 1,344,000 gallons under their capacity each day, and this production shortage hurts their overall operating efficiency. Jobbers who depend on these independent refineries are unable to meet their delivery obligations. The operators of independent service stations are unable to obtain sufficient gasoline and other fuel supplies to stay in business.

These businesses are not giants. They do not exercise immense control in the marketplace or employ thousands of people. But they are local operations, close to their communities and key elements in our free enterprise system. Taken individually, they do not wield great force, but, taken together, they are vital to the health of America's entire economy.

They are even more important in light of their role in the agricultural sector of the economy, for they provide much of the fuels farmers depend upon for their tractors, combines, and trucks. Farmers rely on them—depend on them. And without these fuels, our agricultural production will grind to a halt. And when agricultural production declines, food prices will rise, and every American consumer will be affected.

An independent industry, small businessmen, farmers, and consumers have the greatest possible stake in this crisis, and steps must be taken to effect a solution.

Crude oil is the basic ingredient in the crisis and in any solution. At the moment we are facing shortages in total amounts of crude oil available for all those who could utilize it. Perhaps over the long run economic forces will adjust the demand and an equilibrium can be achieved. But we cannot wait for these forces to work. Steps must be taken immediately if a major energy-food-cost of living crisis is to be averted.

I have heard from citizens of Kansas, refiners, jobers, and retailers, farmers and concerned people who see the handwriting on the wall as shortages grow and the demands of a record plowing season draw near. They are worried. They do not see how the situation can be improved without decisive action.

I believe steps must be taken—and soon—to meet this crisis before it grows and spreads. Thus, I support the provision of Economic Stabilization Act amendments which give the President authority to allocate petroleum products in times of shortages in order to assure that equitable distribution patterns and competition will be maintained.

I believe that the interests of the free enterprise system, the independent small businessman, the farmer, and the American consumer are primary and must be safeguarded in this crisis and our attempts to resolve it.

Mr. MATHIAS. Mr. President, I have an amendment at the desk which I ask be stated.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

On page 2, line 18, after the word "provide" insert the words: "after public hearing, conducted with such notice, under such regulations and subject to such review as the exigencies of the case may, in his judgment, make appropriate".

Mr. MATHIAS. Mr. President, I yield myself 1 minute to say that this is a very simple amendment. It provides that before invoking the power to ration, the President shall hold public hearings so that all interests may be represented, and so that the public especially can be heard. That means producers, consumers, and the middleman—the whole of the national interest which is involved in the proceeding.

The amendment provides that the President, in exercising this duty, shall hold a public hearing and may recognize the overriding public interest in time and that, therefore, he may provide by regulation for the notice of, for the review of, and for the conduct of a hearing.

This is a somewhat extraordinary situation but I do not think we should ignore the fact that even the presidential power should be conducted with due regard to the interests of the public. I think therefore, that the requirements of a public hearing will be a valuable addition to the bill.

Mr. EAGLETON. Mr. President, I yield myself such time as I may require. I believe that I comprehend the thrust of the amendment as offered by the Senator from Maryland but let me inquire of him as to some of the specifics.

First, if this law passes and is signed by the President, is it necessary for him to issue regulations before he can begin to implement this section of the law?

Mr. MATHIAS. I would anticipate that he would, in each case of exercising his power, set forth the regulations under which he was going to hold the hearings. But the only requirement would be that he should hold a public hearing.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that it may be in order now to order the yeas and nays on the amendment which will be proposed by the distinguished Senator from South Dakota (Mr. McGOVERN). It will be laid before the Senate and made the pending amendment at the close of business today.

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

Mr. McGOVERN. Mr. President, I ask for the yeas and nays on that amendment.

The yeas and nays were ordered.

Mr. EAGLETON. Mr. President, let me ask this question of the Senator from Maryland. Assuming it is July of this year, assuming that the Presidential advisers on energy matters come to him and say, "Mr. President, we have a real crisis immediately upon our hands. In order properly to allocate oil and gas, we are going to have to implement rather promptly some rationing this summer, posthaste." Could the President then announce to the public that this is what he is going to do, and set up a hearing 48 hours or 72 hours from the time he is going to give a speech to the country on the subject, so that the people are heard at the hearing and the next day a binding order is issued? Could the President do that if the exigencies and circumstances were as I have just described them?

Mr. MATHIAS. If that were the President's judgment and if the President was prepared to stand on it and lay out the facts and lay out the situation for the public as he saw it, then I think that would be exactly the way it would work.

Mr. EAGLETON. There would be no appeal from the President's order unless, by some regulation he designed it that way?

Mr. MATHIAS. That is right. So that, in effect, we are carving out an exception from the normal administrative procedures.

Mr. EAGLETON. So it is pretty much up to the President, under the Mathias amendment, as to what procedures he will use in holding the public hearings, or giving notice, or what appeals process there would be from the final order?

Mr. MATHIAS. Because, as the distinguished manager of the bill has pointed out, no one can know how fast this kind of emergency can come down the road. Therefore, I think that an exception to the normal administrative procedures is in order. But I also think that this at least provides some clear standards of responsibility in exercising the extraordinary powers we are discussing.

Mr. EAGLETON. With the understanding which has just been elicited in this colloquy between the Senator from Maryland and myself, I have no objection to the amendment as offered by the Senator from Maryland.

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

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

The PRESIDING OFFICER. All time on the amendment has been yielded back.

The question is on agreeing to the amendment of the Senator from Maryland (Mr. MATHIAS).

The amendment was agreed to.

AMENDMENT NO. 40

Mr. McGOVERN. Mr. President, I call up my Amendment No. 40 and ask that it be made the pending business.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk read as follows:

After section 5, add the following new section and renumber the other sections accordingly:

IMPOUNDMENTS

SEC. 6. Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"(k) The authority granted to the President under this title shall become null and void in the event that the President, after the date of enactment of this subsection, withholds or reserves or causes to be withheld or reserved with excess of 5 per centum of any obligational authority provided by law or of any funds appropriated under such authority."

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I do not intend to discuss the amendment tonight. It is my understanding that it will be the first order of business when we proceed with the bill on tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that no time be charged against the amendment for the remainder of the day and that no time be charged against the bill for the remainder of the day. There will be no more votes today.

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

Mr. TOWER. Mr. President, reserving the right to object—and I do not particularly want to object—about how much longer will we be in session? How long does the Senator want to proceed?

Mr. McGOVERN. I do not intend to discuss the measure tonight.

Mr. TOWER. Therefore, we will consider that the time is not running on the amendment or on the bill?

Mr. ROBERT C. BYRD. Yes.

AMENDMENT NO. 48

Mr. MOSS. Mr. President, I am submitting today an amendment to the Economic Stabilization Act that would freeze all retail food prices for a period of 90 days. This action has become imperative in view of the further increases that are predicted for the next few months and the administration's lack of interest in halting this record-breaking inflationary spiral. It may be true, as President Nixon predicts, that increases in supply eventually will bring a stop to the rise in food prices. But we cannot afford to sit back until the market works its magic. There are several compelling reasons why we need a temporary freeze in prices until the shortage in supply has been corrected.

First, even by the President's own estimates, food prices will continue to rise "for some months to come." So while the administration plays its waiting game, the American housewife will continue to pay more and more each time she goes to the supermarket. In fact, the administration tells us that we can expect prices to rise even more sharply in the near future than they have over the past several months. For the hard-pressed consumer, this is a dismal forecast, indeed.

Second, even if food prices eventually "peak out" they probably will do so at a level that is intolerable for families of low and moderate income. These are the families that must devote most of their monthly budget to the basic essentials. Rising food prices have already put their modest incomes under a great deal of strain. Further sharp increases, which the President apparently sanctions, undoubtedly would cause considerable hardship on a large scale. We cannot allow an essential commodity such as food to rise to price levels that are beyond the reach of many Americans.

Third, there is simply no assurance that food prices eventually will level off, even some months from now. The President's long-range forecast is based on the assumption that, in a seller's market, supply will rise to meet demand and put a stop to further increases in price. But it is not at all clear that supply will respond so readily. Moreover, this forecast ignores the possibility of further shortages in world markets. At best, the President's so-called plan is a gamble at the expense of household consumers.

Finally, a continued rise in food prices over the next several months will serve to build further inflationary pressures in the remainder of the economy. Under phase III of its economic game plan, the administration relies mainly upon voluntary restraint to hold the line on prices and incomes. But surely the administration cannot reasonably expect labor unions, for example, to moderate their wage demands during a period of soaring prices. Such an expectation would fly in the face of a commonsense as well as common fairness.

In the next several months union contracts concerning more than 4 million workers will be up for negotiation. If food prices continue to climb, these increases will be reflected in the new wage agreements, which in turn will drive prices even further into the stratosphere. If past experience is any guide, the Nixon administration will eventually resort to its favorite anti-inflationary devices—massive restrictions on credit, curbs on growth, and deliberate creation of unemployment. Congress cannot stand aside and allow this familiar pattern to repeat itself.

I am fully aware of the various arguments that will be brought out against a temporary freeze in food prices, but I believe that upon careful examination they are not persuasive.

A freeze would not, as some hold, lead to a serious squeeze on retailers. Under certain circumstances a freeze might put undue pressure on retailers, but at the present time it appears that prices at the farm level have begun to level out, so retailers should be able to withstand pressure from below.

A temporary freeze may cause some products to be taken off the market shelves for a brief period, but it would not lead to long-term shortages. We will simply have to live with the fact that some retailers will market, say, only those cuts of meat that give them a large profit margin. I believe that most consumers would prefer some restrictions on variety to continuing spiraling prices.

There is some fear that controls on food prices eventually lead to blackmarketing and rationing. There may be some substance to this fear in the long run, but black markets and rationing would not result from a freeze of only 90 days.

Finally, it is difficult to see how a temporary freeze would hurt the American farmer. Even assuming that backward pressure from the freeze would hold down farm prices, this would by no means be a disaster for the farmer.

Farm income—the money received by the farmer for his products—has risen 22 percent in 1 year. The income of farmers jumped to 85 percent of parity in 1972, up from 74 percent in 1971. Net farm income for 1972 was $19.2 billion; for 1971, it was $16.1. Back in 1967, the figure was only $14.2. Increases in farm income the past 2 years have certainly been justified, but I do not believe we can afford further sharp increases at the expense of the household consumers.

In sum, Mr. President, the arguments for this amendment are overwhelming. Whatever short-term difficulties may result from a freeze are vastly outweighed by the long-term necessity of bringing inflation under control. Food prices are a critical area and the next few months will be a critical period of time. We will have no hope—short of another recession—of stopping inflation unless we act now to control food prices.

I send my amendment to the desk and ask that it be printed in the RECORD.

The PRESIDING OFFICER. The amendment will be received and printed and will be on the table; and, without objection, the amendment will be printed in the RECORD.

The amendment is as follows:

AMENDMENT NO. 48

At the end of the bill, add the following new section:

NINETY-DAY RETAIL PRICE FREEZE

SEC. 9. The Economic Stabilization Act of 1970 is amended by inserting after section 203 the following new section:

"§ 203A. Ninety-day retail food price freeze

"Immediately upon the enactment of this section, the President shall issue an order stabilizing retail prices of food products for a period of ninety days from the date of enactment of this section, at levels not greater than the highest levels pertaining to a substantial volume of actual transactions by each business enterprise or other person during the two-month period ending March 1, 1973, for like or similar products. If no transactions occurred during the two-month period referred to in the first sentence of this section, the level established under this section shall be the highest applicable level in the nearest preceding two-month period in which such transactions did occur."

ORDERS FOR RECOGNITION OF SENATORS AND FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that tomorrow, immediately following the remarks of the distinguished assistant Republican leader, the distinguished Senator from Wisconsin (Mr. NELSON) be recognized for not to exceed 15 minutes; that he be followed by the distinguished Senator from Connecticut (Mr. WEICKER) for not to exceed 15 minutes; that he be followed by the junior Senator from West Virginia for not to exceed 15 minutes, after which there be a period for the transaction of routine morning business, for not to exceed 15 minutes, with statements therein limited to 3 minutes each, at the conclusion of which the Chair lay before the Senate the unfinished business.

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

ORDER FOR ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 12 o'clock noon tomorrow.

Mr. TOWER. Mr. President, reserving the right to object, may I ask the distinguished acting majority leader whether it would be possible for us to come in a little earlier and get to work on this bill?

Mr. ROBERT C. BYRD. I wish it were, and normally I would favor that. But the distinguished Senator from Alabama (Mr. SPARKMAN) has suggested that we not come in tomorrow until noon. He made some reference to a committee hearing in discussing the matter with me a little while ago.

Mr. TOWER. I wonder whether the distinguished acting majority leader would indicate that we might stay in a little late tomorrow evening.

Mr. ROBERT C. BYRD. Yes, I think we should, in deference to the distinguished Senator, who has tried his best, and I am referring to the distinguished Senator from Texas (Mr. TOWER), the ranking minority member. He has tried hard—and so has the able manager of the bill—to move the bill along today. He has offered several of his own amendments, which I think was very gracious of him to do, especially in view of the fact that other Senators were reluctant to offer theirs. I would hope that we would stay in late tomorrow evening.

Mr. TOWER. And try to finish the bill.

Mr. ROBERT C. BYRD. And complete action on the bill, if possible. In that event, it may be possible that we would not be in session on Wednesday. I say it may—and I emphasize may—be possible that we would not be in session on Wednesday if we could complete action on this bill tomorrow evening.

Mr. TOWER. I suggest to the Senator from West Virginia that that might serve as an incentive.

Mr. ROBERT C. BYRD. It often does, but I do not want to be bound by that statement. If the Senate has business to transact, I am sure that we want to come in on Wednesday.

The PRESIDING OFFICER. Is there objection to the unanimous consent request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1973

The Senate continued with the consideration of the bill (S. 398) to extend and amend the Economic Stabilization Act of 1970.

Mr. ROBERT C. BYRD. Mr. President, the pending question before the Senate is on the adoption of Amendment No. 40, offered by Mr. MCGOVERN. Am I correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. That will be the pending question on tomorrow, at such time as the unfinished business is laid before the Senate?

The PRESIDING OFFICER. That is correct.

Mr. ROBERT C. BYRD. I thank the Chair.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER TO PLACE A BILL ON THE CALENDAR UNDER SUBJECTS ON THE TABLE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that Calendar Order No. 68, S. 837, the bill to amend the Foreign Assistance Act of 1961, and for other purposes—in view of the fact that the matter already has been resolved by way of the continuing resolution—be carried on the Calendar under Subjects on the Table.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for tomorrow is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. GRIFFIN, Mr. NELSON, Mr. WEICKER, and Mr. ROBERT C. BYRD. Thereafter, there will be a period for the transactions of routine morning business for not to exceed 15 minutes, with statements limited therein to 3 minutes each. At the conclusion of the period for the transaction of routine morning business, the Senate will resume its consideration of the unfinished business, Calendar No. 70, S. 398, the bill to extend and amend the Economic Stabilization Act of 1970.

The pending question will be on the adoption of Amendment No. 40 by Mr. MCGOVERN, on which there is a 30-minute time limitation and on which the yeas and nays already have been ordered. There will be several yea-and-nay votes tomorrow. It is hoped that the Senate will be able to complete action on S. 398, in which event the Senate will be in session until a later hour.

ADJOURNMENT

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 12 o'clock meridian tomorrow.

The motion was agreed to; and at 6:12 p.m., the Senate adjourned until tomorrow, Tuesday, March 20, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate on March 16, 1973, pursuant to the order of March 15, 1973:

DEPARTMENT OF STATE

Jack B. Kubisch, of Michigan, a Foreign Service officer of class 1, to be an Assistant Secretary of State.

DEPARTMENT OF DEFENSE

William W. Woodruff, of Virginia, to be an Assistant Secretary of the Air Force, vice Spencer J. Schedler, resigned.

Hadlai A. Hull, of Minnesota, to be an Assistant Secretary of the Army, vice Eugene M. Becker, resigned.

Carl S. Wallace, of Virginia, to be an Assistant Secretary of the Army, vice Hadlai A. Hull.

DEPARTMENT OF STATE

G. McMurtrie Godley, of the District of Columbia, a Foreign Service officer of the class of career minister, to be an Assistant Secretary of State.

IN THE NAVY

Rear Adm. Wiliam R. St. George, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Walter D. Gaddis, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Robert B. Baldwin, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Executive nominations received by the Senate March 19, 1973:

DEPARTMENT OF LABOR

William H. Kolberg, of Maryland, to be an Assistant Secretary of Labor, vice Malcolm R. Lovell, Jr., resigned.

SOCIAL AND REHABILITATION SERVICE

James S. Dwight, Jr., of California, to be Administrator of the Social and Rehabilitation Service, (new position.)