timber; to the Committee on Ways and Means.

PRIVATE BILLS AND RESOLUTIONS

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

By Mr. CAREY of New York:

H.R. 5906. A bill for the relief of Salvatore Carollo and his wife, Antonina Carollo; to the Committee on the Judiciary.

By Mr. PEPPER:

H.R. 5907. A bill for the relief of Capt. Bruce B. Schwartz; U.S. Army; to the Committee on the Judiciary.

PETITIONS, ETC.

Under clause 1 of rule XXII,

70. The SPEAKER presented a petition of Richard L. McCormack, et al., Lorain, Ohio, relative to protection for law enforcement officers sued for damages in Federal court resulting from the performance of their duties; to the Committee on the Judiciary.

SENATE—*Tuesday, March 20, 1973*

The Senate met at 12 o'clock meridian and was called to order by Hon. JOSEPH R. BIDEN, JR., a Senator from the State of Delaware.

PRAYER

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

O Lord our God, who has promised that wherever two or three are gathered together in Thy name, there Thou art in the midst of them, we lay hold upon that promise for, though like sheep, we may have gone astray and turned to our own ways, Thou hast not forsaken us. In our human weakness and need, grant us a sense of Thy real presence. Bestow Thy blessing upon the members of this body, its officers and its servants, that each of us may be better than we are, wiser than we know, and stronger than we dream, serving this Nation aright and ever advancing Thy kingdom.

Through Jesus Christ our Lord. 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 20, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. JOSEPH R. BIDEN, JR., a Senator from the State of Delaware, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, March 19, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees, with the exception of the Committee on Commerce, may be authorized to meet during the session of the Senate today.

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.

MANPOWER REPORT OF THE PRESIDENT—MESSAGE FROM THE PRESIDENT

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

To the Congress of the United States:

As required by section 107 of the Manpower Development and Training Act of 1962, as amended, I am sending to the Congress the fourth Manpower Report of my Presidency and the final one of my first Administration.

The report describes the acceleration of the economic recovery in 1972 and analyzes the significant decrease in rates of unemployment that occurred following a revitalization of labor demand under Phase II of our Economic Stabilization Program. Significantly, these overall employment gains have been achieved in the face of an unusually rapid expansion of the civilian labor force. I am especially gratified by the evidence that this Administration's intensive effort to improve the employment situation of Vietnam-era veterans has been increasingly effective in recent months.

In the course of a decade of experimentation, numerous federally sponsored manpower programs have been devised and executed in response to changing perceptions of national requirements. The experience of these 10 years has demonstrated conclusively that "national" manpower issues really have a sharply differentiated impact among the many States and localities and hence that the effect of many large-scale federally designed programs has been to unduly constrict States and localities, preventing them from directing resources to meet their problems.

In response to these findings, this Administration will take steps during 1973 and 1974 to institute a new program of manpower revenue sharing within the existing legislative framework. The new Manpower Report discusses this much-needed reform, which will permit States and localities to use manpower resources in a manner consistent with their requirements.

I commend this report to the careful attention of the Congress.

RICHARD NIXON.

THE WHITE HOUSE, *March 20, 1973.*

EXECUTIVE MESSAGES REFERRED

As in executive session, the Acting President pro tempore (Mr. BIDEN) 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.)

THE PROGRAM

The ACTING PRESIDENT pro tempore. Does the distinguished Republican leader desire to be heard?

Mr. SCOTT of Pennsylvania. Mr. President, I had intended to dedicate my time to silence for the betterment of the Nation, but I understand that the distinguished acting majority leader is prepared to reply to a query from me as to the state of the business in the Senate.

Mr. ROBERT C. BYRD. Mr. President, may I say to the very distinguished Republican leader that if the Senate completes action on the bill to extend the Economic Stabilization Act today, and if an agreement can be secured with respect to time on the rural water and sewer grant program, the Senate would go over until Thursday upon this close of business today.

The reason, I say, is that the calendar does not have on it the bills which have been sufficiently cleared for action to necessitate a session of the Senate tomorrow. There are bills on which committees have acted and which may be reported to the Senate this week.

In this category are the four crime victim bills which may be reported tomorrow.

It is my understanding that the gold revaluation measure possibly could be reported tomorrow, or Thursday.

The omnibus health program extension bill will not be reported before Friday, and of course it could not be taken up until sometime next week.

The interest equalization tax bill also would not be reported to the Senate before Thursday or Friday.

Then there is the voter registration bill expected to be reported late this week or early next week.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

So, in view of the schedule of actions in reporting these bills, I think that what I have said with respect to going over tomorrow would be justified in the event that action is completed, as I have said, on the unfinished business today.

Mr. SCOTT of Pennsylvania. I thank the distinguished acting majority leader. I should like to mention that while the devaluation bill does not contain a certain provision, it is because I understand the distinguished Senator from Alabama (Mr. SPARKMAN) has given assurance to the distinguished Senator from Missouri (Mr. SYMINGTON), and I have passed the same information over to the distinguished Senator from Colorado (Mr. DOMINICK), that the amendment which interests them, which would permit American citizens to buy gold, which Americans are not permitted to buy now, although any other citizen of any other country in the world can buy gold—was raised.

The distinguished Senator from Alabama (Mr. SPARKMAN) has indicated his committee will hold hearings on such a measure at a later date without a commitment as to what action the committee might take. But, as one who believes that Americans should have the same right to buy gold as the people of other countries, I thought we should put this in the RECORD because it might satisfy the curiosity of other Senators as to what is happening.

Mr. ROBERT C. BYRD. Yes. I thank the distinguished Republican leader. By way of a postscript to my reference to the unfinished business, it will necessitate, I think, the Senate's staying in quite late—reasonably late, may I say—if the Senate is to complete action on the bill today.

Mr. TOWER. Mr. President, will the distinguished Senator from West Virginia yield for a question?

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Does the distinguished Senator from West Virginia anticipate that the revaluation of gold will come up this week, or will it not be taken up until next week?

Mr. ROBERT C. BYRD. I would not anticipate that it would be taken up this week. I understand that the report will not be filed before Wednesday or Thursday so I doubt that it would be available for action this week.

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

CANADA-UNITED STATES INTERPARLIAMENTARY MEETING—APPOINTMENTS BY THE VICE PRESIDENT

The ACTING PRESIDENT pro tempore (Mr. BIDEN). The Chair, on behalf of the Vice President, pursuant to Public Law 86-42, appoints the following Senators to the Canada-United States interparliamentary meeting, Washington, D.C., April 4-8, 1973: the Senator from Wyoming (Mr. MCGEE), chairman; the Senator from Maine (Mr. MUSKIE); the Senator from Louisiana (Mr. JOHNSTON); the Senator from South Dakota (Mr. ABOUREZK); the Senator from Iowa (Mr. CLARK); the Senator from Delaware (Mr. BIDEN); the Senator from Vermont (Mr. AIKEN); the Senator from New York (Mr. JAVITS); the Senator from Nebraska (Mr. CURTIS); the Senator from Alaska (Mr. STEVENS); and the Senator from Ohio (Mr. SAXBE).

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order the distinguished Senator from Michigan (Mr. GRIFFIN) is now recognized for not to exceed 15 minutes.

Mr. GRIFFIN. Mr. President, I ask unanimous consent that the order be vacated.

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

PRIVILEGE OF THE FLOOR

Mr. TOWER. Mr. President, I ask unanimous consent that the minority counsel for the Committee on Banking, Housing and Urban Affairs, Michael E. Burns, be permitted the privilege of the floor today.

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

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, the distinguished Senator from Wisconsin (Mr. NELSON) is now recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and ask unanimous consent that the quorum be without prejudice to the distinguished Senator from Wisconsin (Mr. NELSON); and I ask unanimous consent, further, that the time which had been allotted to the distinguished assistant Republican leader under the order be utilized for such a quorum and, if necessary, that any additional time for such quorum be taken out of the order allotted to me.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered; and the clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Under the previous order, the Senator from Wisconsin is recognized for not to exceed 15 minutes.

THREE ARTICLES IN THE APRIL PROGRESSIVE MAGAZINE

Mr. NELSON. Mr. President, I have just had an opportunity to read three articles in the Progressive magazine, a distinguished journal of opinion, which is published in Madison, the capital city of my home State of Wisconsin. These articles present dramatic and deeply disturbing material and charges about the policies, practices, and procedures of one of the great industries of our country, the oil industry. These articles were written by unusually competent and qualified men, one of them, our former and still much valued colleague, Fred Harris. The second is Philip M. Stern, whose books on taxation, and especially taxation loopholes, and on other subjects, have won widespread acclaim, and, to the best of my knowledge, have never been challenged on factual grounds, however much some critics might disagree with some of his viewpoints. The third author is Laurence Stern, the able, award-winning writer for the Washington Post, who has previously written on the oil industry.

The overall title of the three-part presentation in the Progressive is "The Power of Oil." The three independent articles are entitled:

"Oil: Our Private Government," by Laurence Stern.

"Oil: How It Raids the Treasury," by Philip Stern.

"Capitalism Betrayed in Its Own Camp," by Senator Harris.

The issues raised in these articles are not only of great concern to all of us in the Congress and indeed all citizens of America, but they come at a most vital and timely moment when the House Ways and Means Committee is embarked on a major exploration of tax loopholes—the total potential yield of which is bitterly debated—and the Senate Finance Committee also will soon be deeply involved in these matters.

Moreover, the presentation in the Progressive takes on further significance in view of the widespread debate over the energy crisis.

These articles represent a significant challenge to the oil industry on many important points involving major public policy questions. I am sure the oil industry would not wish to ignore the challenge of these articles. There is always more than one side to all important issues. In order to assure that the record will be balanced I will ask for the comments of leading oil executives on the issues raised in these articles and submit their responses for printing in the RECORD.

If in fact it is a true picture of the oil industry that emerges from a reading of these articles in the Progressive magazine, it is a picture of what could well be the most privileged, the most nearly monopolistic, and politically the most powerful industry in the country.

What Members of the Congress and the administration must decide is:

First, is this picture accurate or inaccurate? Congressional hearings could help answer that question. And if the answer is affirmative, the next step would be to explore, without delay, what legislation should be enacted, and what administration actions might be taken to protect the public interest.

Senator Harris, an Oklahoman who knows the oil industry firsthand, states in his article, "Capitalism Betrayed in Its Own Camp," that—

> The oil and gas industry is a shared monopoly. Standard Oil of New Jersey, Mobil, Texaco and Gulf accounted for 55.4 percent of all petroleum sales in 1970. Jersey Standard alone controlled nearly twenty percent of sales. In particular areas or regions, the company names are somewhat different, but a few of the major companies nevertheless control the market.

One result of this noncompetitive marketing system, Mr. Harris contends:

Is that the 211,000 filling station operators for major oil companies have an extremely precarious economic existence. The turnover rate of dealers in the gasoline industry is far higher than in comparable industries—as many as forty percent of the dealers in some markets change jobs every year.

Mr. Harris says:

The main crisis in energy is that energy sources are monopolized. The twenty-five largest oil companies are involved in natural gas. Eighteen of them have invested in oil, shale, and uranium. Eleven are in coal. Seven are in tar sands. Six of the ten largest oil companies are involved in all four major domestic fuels—oil, gas, coal, and uranium.

In short, Senator Harris contends:

The giants have taken over the oil industry and plan to dominate other fields of energy as well. These oil giants are also the beneficiaries of multi-billion dollar tax exemptions according to Philip Stern in another Progressive article, "Oil: How It Raids the Treasury."

Philip Stern quotes figures on five of the giants—Gulf, Texaco, Mobil, Standard of California, and Standard of New Jersey—which show that for the year 1971, on a combined profit of $7,389 million, these companies paid only 5 percent in Federal taxes. Stern asserts that if they had been paying a share comparable to American corporations as a whole, or two-fifths of their net income in taxes, these five companies, taken together, would have paid $2½ billion more in taxes than they did under our present laws.

One of the ablest of our Washington newsmen, Laurence Stern of the Washington Post, rounds out the Progressive's series of reports on the oil industry. He describes some of the major links between the Government and the oil industry.

The State Department also "has serviced the needs of the American oil majors," Laurence Stern writes in his article, "Oil: Our Private Government."

The President's energy message, Stern reports, may—

Ratify some of the most insistent demands of the major oil companies, foremost among them may be federal abolition of regulation of interstate natural gas prices.

All in all these articles raise major questions which must be addressed by the Congress and the public.

Mr. President, I ask unanimous consent to have printed in the RECORD the three articles to which I have referred.

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

OIL: OUR PRIVATE GOVERNMENT

(By Laurence Stern)

THE LEWIS FLAGG AFFAIR

The deed was done in one of those obscure back wards of the Federal bureaucracy, the Oil Import Appeals Board. The subject (or victim) was one of the legion of nameless and faceless officials, an Interior Department career lawyer named Lewis Flagg, the Board's chairman since 1969 and one of the highest ranking black officeholders in the Department.

On February 9 of this year, Flagg was informed by letter over the signature of his boss, Interior Secretary Rogers C. Morton, that he was being removed from his job and transferred back to a lower position within the Department.

"I don't know what it was all about," Flagg said the day the fateful letter arrived at his agency's suburban Virginia headquarters, to which it had been exiled by the Administration after an unsuccessful effort last year to abolish it altogether. "The Secretary's letter said I argued with other members of the Board. We had open discussions. We have to in this business."

Senator Thomas J. McIntyre, New Hampshire Democrat, mindful of his own troubled constituency of oil consumers, put a different construction on the affair in a letter to Treasury Secretary George P. Shultz.

"The Chairman of the Board, Mr. Lewis Flagg, has been the subject of criticism from certain segments of the petroleum industry for some time over the performance and manner in which the Board operates. The major integrated oil companies have for several years complained that the Oil Import Appeals Board was too liberal in its granting of hardship quota allocations to the independent segments of the oil industry.

"The recent decision to remove Mr. Flagg as Chairman of the Board is, in my opinion, a direct result of his continuing attempts to maintain within the petroleum industry the ability of small and medium-sized businesses to prosper and compete with their larger rivals."

Secretary Morton never elaborated on the reasons for the dismissal. But oil industry analysts noted that Flagg's removal came less than a week after he granted a hardship allocation of 242 million gallons of gasoline to some three dozen small distributors who, unlike the big companies, had no access to foreign supplies or to refinery capacity.

The suspicions voiced by Interior's "bias in favor of the economic welfare of the large, integrated companies" is by no means unique or far-fetched. The Administration has done nothing to dispel that assumption.

The event passed with barely a ripple in the press or on television. Certainly it was not Teapot Dome, but the Lewis Flagg affair, with its Kafka-like overtones, served well to illustrate the day-to-day pressure of oil's influence within our Government institutions.

ANATOMY OF THE OIL ESTABLISHMENT

The Lewis Flagg affair is neither an accident nor an aberration. The Federal energy bureaucracy, to paraphrase an ancient adage, abhors a maverick. The Interior Department has behaved through the years as the chief Government patron of the major oil companies. Its top layer of officialdom at the Assistant and Deputy Assistant Secretary level has long tended to be composed of men with private oil company backgrounds and attitudes.

President Nixon's chief energy adviser until recently, Peter Flanigan, came under criticism himself during his first year in the White House for supporting a subsidy to a tanker line he helped to organize before joining the Administration. Recently-retired Assistant Secretary of the Treasury Charls E. Walker, brother of recently-departed Federal Power Commissioner Pinkney Walker, was reported to be representing oil interests here, particularly in the campaign for decontrol of natural gas prices.

Interior Department officials sit with oil company executives on committees of the National Petroleum Council (NPC), which together with the American Petroleum Institute (API), form the bicameral legislature of the private government of oil. The basic flow of data upon which the Government must depend for its decision-making on petroleum matters is provided by the committees of the API and NPC. It is a tradition that is regarded as friendly or wholly incestuous, depending on your point of view. Only within the past few years has the Federal Power Commission embarked on its own survey of natural gas reserves.

Interior is not the only Federal agency that has serviced the needs of the American oil majors. In 1971, the State Department undertook a major act of diplomatic intervention in behalf of the multi-national oil companies and the Organization of Petroleum Exporting Countries (OPEC), the Middle East producing nations, and helped to create an international oil cartel that may have provided substantial impetus to the energy crisis in the United States. The results of that intervention were described at length by Massachusetts Institute of Technology professor of economics M. A. Adelman in a recent issue of *Foreign Policy* magazine.

The oil industry nurtures its warm ties of community in Washington with many tender attentions, not the least of which is money. It was hardly surprising that the controversial $89,000 which was "laundered" through a Mexico City bank in the Watergate case was part of a $100,000 contribution to President Nixon's reelection committee by Texas oil man Robert H. Allen, president of Gulf Resources and Chemical Company. Allen asked for his money back only recently, after the wave of publicity surrounding his donation.

The *Chicago Tribune*, in a survey of campaign contributions lists, determined that some $2 million in large contributions (more than $50,000) was donated to President Nixon's campaign by a dozen contributors, all of whom were executives or major stockholders in petroleum and related industries. Chief among them was Richard Mellon Scaife, chief heir to the Mellon fortune and a principal stockholder in the Gulf Oil Corporation. Scaife gave $1 million.

The stakes in this year's energy debate are bigger than ever. President Nixon's forthcoming energy message could prove to be the most important executive action in petroleum policy since President Eisenhower proclaimed mandatory import quotas in 1959.

Reports are circulating in the Washington oil grapevine that the energy message has been redrafted three times. It was due originally in February.

One Administration source who has closely followed the deliberations maintained that the early versions were rejected because they were "too loaded in favor of the vested interests." But there was also intelligence that the energy message will ratify some of the most insistent demands of the major oil companies, foremost among them being an end of Federal regulation of interstate natural gas prices.

From the viewpoint of its impact on the consumer pocketbook, the abolition of regulation is probably the single most important issue in the current energy reappraisal. One Government specialist estimated that a thirty-cent-per-1,000-cubic-feet increase in the price of natural gas would increase the bills of consumers by $6.6 billion. It would increase also the value of the potential domestic reserves in the country conservatively estimated at 1,000 trillion cubic feet, by $300 billion, a bonanza that presumably would go to the major companies which always seem to end up with control of our fuel reserves.

The last time Congress passed legislation to decontrol natural gas prices was in 1956. But President Eisenhower vetoed the bill then because of unseemly lobbying by two oil company attorneys who tried to win the favor of the late Senator Francis Case, South Dakota Republican, with an envelope containing twenty-five $100 bills. This year all segments of the industry are more ebullient than they have been for years in their hopes that a bill wiping out regulation will pass Congress. The rosy prognosis results from the advent of The Energy Crisis.

THE SELLING OF THE ENERGY CRISIS

The American reading public loves nothing better than an impending apocalypse and

so it was quick to embrace and accept The Energy Crisis. At the same time, the oil industry, with its financial resources and public relations skills, adroitly took the initiative in molding the public perception of the crisis; its origins, its nature, its solution.

During 1972, the American Petroleum Institute, chief lobbying and public relations organization of the oil industry, conducted a blitz advertising campaign on television and in mass circulation magazines which by API's own estimates cost $3 million. The keynote was the slogan, A NATION THAT RUNS ON OIL CAN NOT AFFORD TO RUN SHORT.

The standard API pitch was that the energy crisis resulted not only from growing demand and limited petroleum reserves but also oppressive environmental restrictions, adverse tax treatment, and maintenance of Federal controls over the interstate price of gasoline. The combination of these things, API insisted, was sapping the incentives for new investment in exploration, drilling, and refining—and therefore contributing to The Energy Crisis.

The solution to the crisis, it would seem, is to grant the companies what they want in the conviction that what is good for the oil industry is good for the country. As Mobil put it in one of the series of advertisements running opposite the editorial page of *The New York Times*, "Oil companies knew the shortage was coming, they knew how it could be averted. For the past twenty years we have told everyone who would listen what we knew, but we failed to convince policy makers to take the necessary steps."

API's president, Frank Ikard, a former Texas Congressman, put the case more forcefully to the Association's annual meeting in Chicago last November: "If the American people are to make the right decisions (on energy policy)—and some of these decisions will be made in the next few weeks or a month—it behooves us all to set the record straight. In short, we've got to get with it."

When the heating oil shortage hit the Midwest and Eastern states this past midwinter, it was sufficiently apparent to shivering school kids and factory workers that a crisis of sorts was at hand. The oil company blamed the conditions on misguided Government policy, on environmentalists, and on other assorted scapegoats, but there was no suggestion that the shortages might have been the result of the policies that grew out of the industry's desire to maximize profit.

But this was the argument that eventually was made by spokesmen for consumer groups, which were late to react and slow to make public the underlying meaning of the mid-winter fuel shorages.

"The 'energy crisis' could well serve as a smoke screen for a massive exercise in picking the pockets of the American consumer to the tune of billions of dollars a year," charged S. David Freeman, Director of the Ford Foundation's Energy Policy project and a former White House energy adviser, in an address to the Consumer Federation of America. "Energy is going to cost much more in the future . . . yet I hear few voices in Government raised to assert the consumer's concern in this critical area." Congress was also slow to respond. It was not until after schools, factories, and homes were without heating that the Senate Interior Committee began asking questions.

Called before the Committee, the then Director of the Office of Emergency Preparedness, General George Lincoln, ruefully admitted that he had been misled by the major oil companies. He had been assured by the industry, Lincoln testified, just before going into retirement, that there would be enough heating oil to last through the winter.

In fact, the country had been lucky in the past winter. It was exceptionally mild. Had it been normal or severe, the heating oil shortage could have turned sections of the East and Midwest into disaster areas.

As early as March of last year, however, there were signs that the inventory of heating oil was sagging to the danger point. But the refineries churned out gasoline instead, since it provided a more profitable return than heating oil under the Nixon Administration's Phase II controls. And so the American fuel balance was so out-of-line that we have the spectacle of gasoline price wars during the summer of 1972 while oil stocks were sinking below the point of peril.

And through it all, the Administration kept the gate tightly shut on foreign oil imports. The industry's vaunted system of administered supply and demand was finally on the verge of breaking down. By January of this year, the White House finally had to step in and make the unheard of move of lowering the import barriers which were established ostensibly in the interest of national security.

As the Administration ponders the final redraft of President Nixon's energy message, it might do well to recall Freeman's words to the Consumer Federation of America: "Thus far, the energy crisis is a self-inflicted wound . . . three years ago, the President's own Cabinet task force recommended that he scrap the present oil import quota system. The winter's so-called 'energy crisis' was manufactured right here in Washington. It could have been averted with a stroke of the President's pen."

The chief benefit of The Energy Crisis is that everyone is now talking about a national energy policy: producers, consumers, and the Administration. In the past, our energy policies, such as they were, have been dictated piecemeal by the Supreme Court, the Congress, the Federal Power Commission, and, most abidingly, by the energy producers, the nation's major oil companies.

It now appears likely that the energy debate will be an important ingredient in American policitics, stretching perhaps through the rest of this century. And the decisions that are being made inside the White House right now could well constitute Richard Nixon's Seventh Crisis.

OIL: HOW IT RAIDS THE TREASURY

(By Philip M. Stern)

Haroldson Lafayette Hunt, of Dallas, Texas, starting with a borrowed $50 for a broken-down oil-drilling rig, managed with the help of Lady Luck (and a not insignificant assist from the U.S. tax laws) to build himself up from a barber/ranch hand/lumberjack to an oil tycoon worth between $2 and $3 billion, with an income estimated (in 1957) at roughly *a million dollars a week.*

Despite his prodigious wealth, however, Hunt seems almost a pauper when compared with fellow oilman Jean Paul Getty, who once estimated the worth of his holdings at several billion dollars yet then added, "But remember, a billion dollars isn't worth what it used to be." Getty's income has been estimated at $300,000 a day.

With incomes, respectively, of roughly $50 million and $100 million a year, the Messrs. Hunt and Getty might have been expected to pay to the U.S. Treasury, under the tax laws prevailing in the early Sixties, taxes of $45 million for Hunt and about $88 million for Getty.

Yet, according to what President John F. Kennedy privately told two U.S. Senators, *Messrs. Getty and Hunt each paid income taxes amounting to only a few thousand dollars a year!*

While H. L. Hunt and Jean Paul Getty could hardly be called your typical oil tycoons, they are far from unique. Consider these cases:

A Mr. D (cited in a Treasury Department study which by law was obliged to clock his name), who, in 1960, had an income ("total reported economic income," in Treasury's words) of *more than 26 million dollars*—and not only wholly escaped all Federal taxation, but even managed to file a Federal tax return showing a *loss* of $846,330, much of which could be helpfully used to shield future-year income from taxation.

A Mr. B, who had total income in the four years 1958–1962 of $9,419,000, *but paid no income taxes in any of those four years.*

One oil and gas operator, of whom Government officials speak privately, who over a twelve-year period sold at least $50 million worth of oil, at times enjoyed an annual income of more than $5,500,000—yet *paid not a penny of income tax for the entire twelve years.*

The tax law is also strikingly gentle toward the major oil companies, for whom a tax as high as ten per cent would be extraordinary. In 1971 when American corporations as a whole were paying about two-fifths their net income in taxes, this is what the tax law permitted the largest oil companies to pay—and what that cost the U.S. Treasury (i.e., all the rest of the taxpayers):

Company	Before-tax profit (billion)	Percent paid in U.S. taxes (percent)	Approximate loss to U.S. Treasury [1] (million)
Gulf	$1.324	2.3	$500
Texaco	1.319	2.3	495
Mobil	1.153	7.4	375
Standard (California)	.856	1.6	330
Standard (New Jersey)	2.737	7.7	885
Total	7.389	5.0	2,585

[1] Difference between what U.S. Treasury did collect from these companies and what it would have collected had these oil companies paid 40 percent of their profits to the U.S. Treasury, as was true of U.S. corporations as a whole.

The same tax laws that permitted these companies virtually to escape paying taxes to the U.S. Government (at the expense of the U.S. Treasury) simultaneously encouraged those companies to pay enormous amounts to foreign governments.

It is clear, from all the foregoing, that the Congress of the United States has looked upon the oil industry and its investors with a kindly beneficence by writing into the tax law a number of special features that will be explained momentarily. For the rest of the U.S. taxpayers, it has been an expensive beneficence: according to one estimate, it has cost the grand total of $140 *billion* since Congress first inserted these special features into the law. Even today, they are costing the U.S. Treasury (i.e., the taxpayers) about $1.6 billion every year. That $1.6 billion of tax subsidies—most of which goes to the huge oil companies and to very rich oil investors—amounts to:

Nearly four times the amount devoted to the "Head Start" program for preschool children.

Twenty-one times the funds for the Neighborhood Youth Corps.

Eight times as much as is spent for on-the-job training of veterans.

Eighteen times the Federal support for the arts and humanities.

There are two basic provisions of the law that account for these billions of "tax welfare" to the oil industry. One is called "percentage depletion"; the other involves something intriguingly labeled "intangible drilling expenses." (The expenses may be "intangible," but the tax benefits are tangible in the extreme.)

For those who enjoy its benefits, percentage depletion is a most pleasant experience. To appreciate just how pleasant, imagine how you would feel if the Government were to say to you, the earner of $10,000 annually, "We think you are such a nice fellow that we will just forget about $2,200 of your income, for tax purposes. That is, when you make out your tax return, just act as if the

$2,200 didn't exist." Chances are you'd feel pretty pleased. Chances are, too, that you would feel absolutely overjoyed if you were told that this would be no one-year temporary phenomenon—that it would last just as long as you went on earning your annual $10,000.

That's pretty much the way percentage depletion works. To all those who receive income from oil and gas ventures, Congress has said, in effect, that in making out their tax returns they may just forget about twenty-two per cent of all their oil and gas income. Congress has, in short, placed that twenty-two per cent of everyone's oil and gas income out of the reach of the tax collector. It is tax-free income. And that tax-free privilege goes on, without limit, as long as the oil or gas well keeps on producing oil.

There is one limitation: in any year, the depletion deduction can't be more than half the net profit from a person's (or company's) oil and gas properties. But that limit has not prevented a dramatic rise in the amount of tax-free income from the "depletion allowance." According to the latest available figures, depletion deductions by corporations (which take the lion's share of such deductions) had climbed from just over $3.2 billion in 1960 to $5.5 billion in 1968.

In addition to this depletion allowance, oil companies and investors are allowed large and immediate tax deductions of their so-called "intangible drilling expenses" in a manner not permitted other taxpayers. For *individual* oil investors (as distinct from the major oil companies), this can be a far more important tax favor than the depletion allowance. It is especially handy for those with an apparent aversion to paying *any* Federal income taxes—ever. One oilman has given standing instructions to his tax attorney to "drill up" any potentially taxable income that may loom on his financial horizon. Others are said to guide their drilling decisions with the aid of computers, which make monthly calculations as to income needing "shelter" from Internal Revenue.

When Congress enacted the so-called "minimum tax" in 1969, with the supposed object of putting an end to total tax avoidance of this sort, the legislators took pity on the oilmen who were using "intangible" deductions as a means of paying zero tax. They did so by exempting "intangibles" (although not the depletion deductions) from the effect of the new tax. As a result, the tax avoiders can still manipulate the system so as to pay no tax. (Use of the "intangible" deductions could, however, increase somewhat the percentage depletions that *are* subject to the "minimum tax.")

In a sense, this "intangible drilling expense" deduction adds insult to injury to the Treasury, since it enables oil investors to use their tax savings (i.e., use what would otherwise be Uncle Sam's money) to help them buy more oil holdings, generate even more tax-favored income, and thus make an even larger dent in the U.S. Treasury.

Percentage depletion applies not just to oil and gas but to more than 110 other minerals, and this special deduction alone costs the U.S. Treasury an estimated $1.3 billion per year. In addition, the special "intangible drilling expense" deductions cost about three-fourths of a billion dollars each year, so the total cost of the tax preferences enjoyed by the mineral industries exceeds $1.6 billion.

This prodigious drain on the Federal Treasury is frequently defended as an indispensable incentive to the costly and high-risk exploration for oil and gas. Some find this argument less than convincing. Their doubts are caused by facts such as these:

The "incentive" offered to comparatively low-risk drilling (in the midst of already-proven wells) is just as generous as that available to high-risk "discovery drilling."

That same "risk incentive" is even offered to those who take no risk whatever (namely, the passive landowners who simply permit the risk-taking driller to drill on their land).

The more costly of the two tax "incentives," percentage depletion, taken by itself (i.e., leaving aside the "intangible drilling" feature of the law), does not reward the person who drills and finds no oil but only rewards those who *have found* the oil and who extract the already-found oil from the ground.

What are the reasons for and against the depletion allowance? To become acquainted with them, one might eavesdrop on a hypothetical discussion between an Oilman and a querulous Taxpayer:

OILMAN. When will everybody learn that oil is different from anything else? Every time you lift a barrel of oil out of the ground, there's one less barrel left, and there's not a thing you can do about it.

Suppose I own just one well, and I'm pumping it at a rate that will dry it up in ten years. Every year, my property gets smaller by ten per cent. At the end of the ten years, it's disappeared, vanished, it doesn't exist—and I'm out of business.

You've heard oil called a "wasting asset"? Well, that's why.

TAXPAYER. But isn't *everything* a wasting asset? I mean, a machine doesn't last forever. And once it's worn out, it's just as useless as a worn-out oil well, and there's "not a thing you can do" (to use your words) to get it back. As far as its usefulness is concerned, it might just as well have "disappeared—vanished."

OILMAN. Sure, but you know perfectly well that the tax laws let the machine owner "write off" or depreciate that machine, so that when it's worn out he'll have the money to go out and buy a new one. That's basically what depletion is for the oil industry; it's supposed to give me the money to go out and find a new well to replace my worn-out well.

TAXPAYER. Now, just a minute. First you told me that when a well was used up, there wasn't a thing you could do about it. Now you're saying you need the depletion allowance to go out and look for a new well. What's the difference between that and going out and buying a new machine?

Besides, if we're going to start giving special tax treatment for "irreplaceable" assets, why leave out Raquel Welch and Willie Mays? You can go out and find yourself a new oil well. But what about them, when they grow old? All the money in the world won't buy them back their youth or their beauty. Why not give them a depletion allowance?

OILMAN. Oh, come on now. You can't be serious.

TAXPAYER. Sir, when it comes to potential discriminations against the beauteous Raquel Welch, I am indeed serious. But let's go back for a minute to the oil well-versus-machine example we were talking about. Let's say a toolmaking company buys a new lathe. Under *depreciation*, the toolmaker can never deduct more than the *original cost* of that lathe. But your *depletion* deductions go on as long as your well keeps producing—even though you may deduct one hundred or two hundred times your original cost. How come?

OILMAN. Well, for one thing, the toolmaker can count on his lathe lasting a certain number of years. But I never know for sure how long my oil well is going to produce. It may give out next year.

Besides, I have no way of knowing how much it's going to cost to find new oil. I may hit five or ten or twenty dry holes before I strike a new well—and I might never hit a producing well.

TAXPAYER. But on both scores the toolmaker is in essentially the same boat. For one thing, a new kind of automated lathe might suddenly come along and make his present machine as obsolete and useless as your suddenly worn-out well. For another, he can't tell how much it's going to cost him to replace his lathe—and even if it turns out to cost him twice as much, *he only gets to deduct his original cost.* I still don't see why you oilmen should be special and get deductions for more dollars than you put in.

OILMAN. Obviously you're not aware that our depletion deductions are less than our outlays. Why, in the late Fifties, for instance, we were laying out $1.18 a barrel looking for new oil—but getting only eighty cents a barrel in depletion deductions.

TAXPAYER. But you're no worse off than any other industry. Nobody gets deductions equal to their *replacement* costs, which is what you keep talking about. Besides, you're leaving out half the picture. You get back your money *once* through your "intangible drilling" and development expense deductions, and then *again* through your depletion deductions. Why the *double* deduction when everyone else only gets one?

OILMAN. There is no double deduction. You see, the depletion allowance is to compensate a man for the fact that his oil is disappearing, and the intangible expenses you mention are to cover the cost of drilling and putting up a well and getting it into production.

TAXPAYER. Well, the Supreme Court doesn't agree with you. It ruled that depletion is supposed to cover both, and another court ruled that the "intangible" deduction is a "special favor."

OILMAN. You know, you keep harping on this "special treatment" theme, but all depletion does is put us on the same footing as everybody else. You see, when I find new oil, I'm creating *new* capital, and when I sell it, all I'm getting is a "return of capital." Other people don't pay taxes on that—why should we?

TAXPAYER. Well, it seems funny to me that when you tell your *stockholders* about your oil sales you list the proceeds as income and profits. But all of a sudden, when you're telling the *tax collector* about them, they are magically transformed into a "return of capital." Some companies even keep two sets of books—one for their stockholders, showing the same kind of "original cost" figures that all other industries use, and another for the Government. In fact, the Internal Revenue Service reported that in 1964 the petroleum industry reported after-tax profits of $1.7 billion, *for tax purpose*—yet *on their own books of account* those same companies showed after-tax profits of $5 billion—*nearly three times as great.*

OILMAN. But that's done—sometimes *required*—in many industries. Besides, you people always forget the terrific risks we run when we look for oil and the fantastic money it costs us. And it's getting more expensive all the—

TAXPAYER. Let me stop you right there. Surely you're not suggesting that oil is the only risk-taking business. As a matter of fact, from one point of view, oil is one of the safest. The figures on business failures in *Dun's* magazine show that in every year from 1925 to 1954, oil had about the lowest rates of failures. In the mid-Fifties, the failure rate per 10,000 businesses was twenty in food, fifty in apparel, eighty-six in construction, over four hundred in retailing—*and only four in oil, gas, and mining!*

OILMAN. Now I've heard it all. Are you saying oil is a "safe" industry?

TAXPAYER. No, I'm not denying there are risks in oil, just as there are in every business. But if the oil industry is going to get a tax concession on the basis of its risks, then the only fair thing would be for the Government to try to measure the exact amount of risk in *every* industry—in fact, every individual business.

You know, you oilmen talk a lot about free enterprise. Why aren't you willing to rely on free enterprise to take care of the risk factor? Other industries assume that if risk is high,

prices and returns on investment will reflect it. Why can't the oil industry stand on its own feet? How come it needs a subsidy?

OILMAN. What are you trying to do, make me mad or something? We oilmen are individualists. We get no subsidy; we want no subsidy.

TAXPAYER. Frankly, I don't see what else you can call it when U.S. corporations as a whole paid about forty per cent taxes in 1971, while five major oil companies paid about five per cent—for a tax saving, compared with other corporations, of two and a half billion dollars, for just five companies in a single year. (See table.)

OILMAN. I still can't seem to get you to realize the extent of the risk we take. In "wildcat" drilling, for instance, when you're exploring in a brand new field—eight out of nine tries turn out to be dry holes. It's true that drilling near proven oil pools, only one out of four is a dry hole.

TAXPAYER. You admit there are different risks involved in different kinds of drilling. Yet why does everybody get the same depletion allowance—whether his risk is high, low, or even zero?

As a matter of fact, most of the depletion deductions don't go to the small wildcatters, who are really risking their financial necks. They go to the giant corporations that take much smaller risks.

OILMAN. You'll have to prove that one to me.

TAXPAYER. All right. The latest available Government statistics on the subject show that in 1967 nearly ninety-two per cent of all depletion deductions were taken by the most colossal corporations in the country—those with assets of more than a quarter of a billion dollars. About $99.70 out of every $100 went to companies with assets of a million dollars or more—that's still a pretty big company. So how much did the smallest companies get? *Thirty cents* out of every $100 of depletion deuctions!

OILMAN. All right, everybody. All together. Let's all hiss the giant corporation and weep for the little fellow. Touching, very touching—but I didn't hear one statistic that had anything to do with the *riskiness* of an oil investment.

TAXPAYER. On the contrary, my statistics were right to the point. In the first place, one of your most ardent Senatorial supporters has said that the big oil companies do very little wildcatting. They buy a lot of their new oil *from* wildcatters as proven wells—so there's no risk there.

Secondly, the drilling they do is fairly conservative, and highly successful. Take the five largest oil companies. In 1958, they hit 3,447 *productive* wells against only 868 dry holes. That's a four-to-one ratio. Even the *worst* record among the forty top oil companies was 105 successes to 96 dry holes—a far cry from the eight-to-one odds you were talking about.

OILMAN. But depletion isn't for risk alone. Everybody's capital—the big fellow's just the same as the little guy's—is disappearing as the oil gets pumped out. But since you're talking about risk, let's concentrate on the small wildcatter, the guy who's *really* taking the risks. If you cut down on the depletion allowance, he just won't go out looking for new oil. He'll sell out to the major oil companies.

TAXPAYER. Now maybe we're getting somewhere. If it's the small wildcatter who's taking the risks and needs the help, let's by all means give it to him. *But let's make sure the help really goes to him,* and not to a lot of people who take no risk and need no relief.

The trouble with a tax deduction is that it's absolutely no good to the really small, hand-to-mouth wildcatter who doesn't have the outside income to offset against the deduction. Besides, why give a tax concession to a man who simply leases his *land* to an oil company, *risks nothing,* and then sits back and collects royalties? Or what if I buy an interest in a *proven* well? Where's my risk? And yet I may get more of a tax break than the wildcatter who risked his shirt.

OILMAN. But the oil industry is still less profitable than a lot of other industries, even *after* taxes.

Besides, what if there's a war? What if we get caught like Europe after Suez—suddenly deprived of our foreign oil supplies, just by the whim of some dictator?

TAXPAYER. Well, if we're going to give tax concessions to one industry solely on the ground that it's "war-essential," we ought to give it to all of them—airplane companies, electronics, and missile companies—there'd be an end to it.

Secondly, if the object is to make sure we have plenty of oil here at home in case of a war, percentage depletion is just 180 degrees wrong.

OILMAN. What do you mean? Why?

TAXPAYER. Because percentage depletion doesn't give you a single penny's benefit for *discovering* the oil. You only begin to get the advantages *when you begin drawing the oil out of the ground*—that is, when you begin using up the oil we might need in a war.

Besides, if we need every drop of our oil for defense, why do we limit the imports of foreign oil? Why not do just the reverse: rely mainly on foreign oil now and conserve our domestic supplies in case of a war?

OILMAN. Oh, sure—and shut down the American industry! Where do you think we'd get the skilled hands to start up our industry again if war did break out?

TAXPAYER. You seem to want it both ways. First you tell me we need lots of domestic oil in case of war, and then you say we should use up our oil here at home to keep our industry going.

Besides, if, as you say, all this foreign oil is going to be cut off from us in time of war, why give it *any* depletion allowance? What sense does it make to subsidize foreign oil, and then deny ourselves the use of it by import quotas?

OILMAN. You mean grant depletion on *domestic* oil but not on *American-owned* foreign oil? Why, Congress would never discriminate that way.

TAXPAYER. I beg your pardon, sir. Congress has done precisely that. In the case of some thirty-five minerals, it has drawn a clear distinction between the domestic and the foreign production. It could do the same with oil.

OILMAN. I think we'd better wind this up. Let me make two final points. First, the depletion allowance has become as much a part of the oil industry as the rotary rig. You wouldn't dream of depriving us of that important tool; don't deprive us of depletion.

Second, the depletion allowance has worked. Since it's been in effect, we've had fabulous discovery of oil, we have lower prices to the consumer on oil and gas—lower, in fact, than in 1926, when depletion began, despite huge cost increases since then. We have one of the greatest oil industries in the world. Why rock the boat? Why experiment with something you don't know will work? I say you can't argue with success.

TAXPAYER. Despite the last admonition, let me put in my final two cents.

Success? Yes. Discovery? Yes. But how much of it is due to the depletion allowance? After all, not a penny of the depletion allowance *as such* (leaving aside the "intangible" deductions) helps new *discoveries*. And most of it goes to people who are doing little or no *high-risk* exploration.

Let me remind you of the study commissioned by the Treasury Department that concluded that the billion and a half dollars of annual tax subsidies to the oil industry was resulting in only $150 million of new oil discoveries—which, with only a ten per cent return, means that the oil tax subsidies are ninety per cent waste.

That's one of the main troubles with a tax subsidy. So often it is extremely poorly aimed at its target objective. So if—and I emphasize "if"—the oil industry (or any other mineral industry) needs special Government help because of the risks of exploration, let the help come directly out of the Treasury. Let Congress appropriate the funds every year, as they do with the farm subsidy and other kinds of subsidies. That way, we could start from scratch and design a new subsidy that would be tailored to help the *real* risktaker: the explorer, the discoverer of oil. But as long as the subsidy is embedded in the tax laws, the billions lost to the Treasury will be unseen, unquestioned, and uncounted—until it's too late to retrieve the wasted money. A directly appropriated subsidy *would bear an annual price tag.* What's more, it would automatically be reviewed and debated every year.

You say we should continue depletion because it's always been there (which it hasn't) and has become part of the industry. Well, child labor and the twelve-hour day were also once part of American industry, but we abolished *them.*

In the annual debate that would take place if the oil subsidy were directly appropriated, there would be a chance to ask questions, such as: Does it make sense to give tax windfalls to people who risk little or nothing—such as those who buy *proven* oil reserves and the landowners who let others take the risk but reap the tax benefits? Does it make sense to spend billions to stimulate the search for more oil, when we are deliberately curbing oil imports—and when studies indicate a ninety per cent waste factor in the present tax subsidy?

I think the public deserves an airing of those questions.

OIL: CAPITALISM BETRAYED IN ITS OWN CAMP

(By Fred R. Harris)

Some Indian tribes once used petroleum as a medicine. And when I was young, we put kerosene—"coal oil," we called it—on cuts and scratches as a curative. We thought it had healing qualities.

Today the situation is reversed. Oil is making us sick—sick with pollution, to be sure, but also sick economically. Actually, the whole energy industry is itself sick with gluttony. It has devoured too much of the competition, too much of the market.

My family worked horses and mules when I was growing up. There were two kinds of animal. We called some "easy keepers," because in the wintertime when the grass was short, they stayed out in the pasture, rustling their own feed.

The other kind we called "barn horses." It was all you could do to get them out in the field to work in the morning. And the only time they showed much spirit was when you headed them back toward the barn at noon or at the end of the day. Then you almost had a runaway. In the wintertime they hung around the barn, wanting to be handfed.

A lot of "barn horses" were smart. Some of them learned how to open granary door latches. Sometimes they would get into the oats and eat so much they would founder. When that happened, we would have to dose them with something.

The energy industry in America is like a bunch of "barn horses." It has gorged itself to the point of foundering. And it needs a good dose of New Populism.

In the beginning, there was competition in finding, refining, and selling oil and gas. "Black gold" was a fabulous bonanza for those who found it, and a gambler could hit it big. But gamblers hate odds. Improved geology reduced the risks some. But that wasn't enough for the oilmen.

Economic and political power did a much better job. The oilmen said that a busy,

growing nation needed the rapid discovery of new oil reserves to fuel its continued growth, and so there ought to be special incentive for oil exploration—that was the oil industry argument. And the Congress bought it.

The oil industry was voted a special tax benefit, now worth some $2 billion a year, through the oil and gas depletion allowance. People who discover oil, and investors who buy or people who inherit interest in an existing oil well, do not have to pay any tax at all on twenty-two per cent of their gross income from oil, up to a maximum of fifty per cent of profits. (Until 1969 the figure was 27.5 per cent.) One of the original arguments for the tax subsidy was that a part of gross income from oil production is actually a return of capital investment and is not really income. But that is just theory, because the exemption of this income from taxation is not limited to the amount of the actual capital investment. And it is not tied to the degree to which these special profits go back into new exploration, although the other argument for this loophole was that it would encourage the finding of new oil reserves. It is just a generous subsidy.

Oil companies are allowed a second lucrative tax advantage by being permitted to write off right away as expenses their intangible drilling costs, rather than have them treated as capital investment. This procedure, again, greatly reduces the part of their income that is subject to tax.

The discovery and production of crude oil, then, has become a special kind of tax-sheltered business in the United States. And the tax encourages high crude oil prices. So if an oil company is engaged in, say, both marketing and production, it is encouraged by the tax laws to charge as much of its costs and expenses as possible to its marketing arm and run up as high a rate of profit as it can in its production division.

But how can crude oil prices be kept high if there are special incentives for everybody to get into the business? That is a question the oil companies first began to ask themselves in the 1930s. They came up with a good non-competitive answer: proration—that is, limiting the production of oil by state law. One aspect of proration has a logical base in that a large underground pool of oil, when discovered, may actually belong to a number of owners. Unless restricted in some way, one owner could rapidly pump out the whole pool. Besides being greedy, this practice can also be wasteful. In the rush by one owner to get the oil out rapidly, to the exclusion of the others, the recovery potential of the pool—the possibility of extracting the maximum amount of oil discovered—can be seriously diminished.

The states set up proration procedures to protect the rights of the various owners of any discovered oil pool and to ensure that the best conservation techniques were used in production. But the procedures failed to stifle competition sufficiently to suit the oil industry. So the proration laws went a step further. The states set up procedures to determine how much crude oil could actually be sold at an established high market price. Then they put a lid on any production above that, halting extra production that would tend to bring the price down.

But what if one state was less restrictive than another? What if competition in one place undermined the lack of competition elsewhere? The oil companies had thought about that possible loophole, and they got the Congress to plug it up. Federal laws were passed to permit the states to agree among themselves on binding limits on crude oil production. And the Congress made it illegal to sell "hot oil"—that is, oil produced anywhere in exces of the proration limits—in interstate commerce.

The average citizen began to pay special tribute to the oil industry out of both pockets. Out of one pocket—his taxpayer pocket—he paid for the oil and gas depletion allowance and the intangible drilling cost write-off. In 1971 the eighteen largest oil companies paid only 6.7 per cent of their net income in Federal taxes—and the taxpayers had to make up the difference. Out of his other pocket—the consumer pocket—the citizen paid higher prices for the lack of price competition in crude oil production.

The gambler's odds were down much lower. But the fix was still not favorable enough to suit the oil companies. Some companies were explorers and producers. Some were refiners. Some were marketers. Such a competitive system still permitted too much risk. After all, if he were left alone, a refiner might buy from any one of several producers. A marketer might buy from several refiners. So the oil companies began to integrate vertically in order to control the flow of oil all the way from the wellhead to the gas pump.

John D. Rockefeller of Standard Oil had long since set the pattern for monopoly in the oil industry by driving some of his competition out of business and by buying out the rest. His career, repeated over and over, is a succinct history of the oil industry. Today the rate of concentration is faster than ever. Companies that produce their own crude oil enjoy increased control of the market and special tax advantages. So the Union Oil Company bought the Pure Oil Company and became the twelfth largest oil company in the country. The Federal Government's Antitrust Division, despite accurate warnings that this particular merger would start a new wave of similar concentration, offered no objection.

Then Getty Oil Company merged with Tidewater, Sun Oil, the thirteenth largest, and Sunray DX, the seventeenth largest oil company, combined. The fourteenth largest, Atlantic, bought the twenty-third largest, Richfield. In all, eight of America's largest oil companies disappeared after 1960. They merged with even bigger companies or were bought outright.

The abuses of the original Standard Oil Trust had produced the antitrust movement in the last century. The first landmark legislation was the Sherman Antitrust Act of 1890. But the Government's memory is short. And it has stood aside while oil companies have integrated "backwards" to the oil fields themselves—buying out other producers and refiners, building and buying pipelines to the oil fields. Nearly four cents out of every dollar the average consumer spends goes for oil and gas. But when he drives up to the pump, his money gives him no market power at all.

It is a seller's market, and the sellers control it. Did you ever wonder why a filling station sells only one brand of gasoline? The system does not always have to work that way, and it did not always. Originally an independent businessman could open up a service station, buy from any one of several refiners or wholesalers, and sell the product under his own name or whatever name or brand he wished. He could compete for customers by offering a better price and better service. But he can't anymore.

There was a time when the big companies owned their own outlets. Some states, beginning with Iowa, passed laws to restrict this kind of chain operation. The companies turned the restriction to their advantage. Although they still retained ownership of some of their best stations, they began to set up "independent" dealers on a franchised basis, either through sales commission contracts or, most often, through short-term leases of filling station facilities. Now a dealer will operate a single station for a huge oil company landlord, selling its one brand alone.

In this way the company gets a sure and exclusive outlet for its product. It also gets extra lobbying power, indirectly, because politicians tend to pay more attention to the entreaties of "independent" businessmen—at least publicly—and they tend to see gas station franchises as independent. And because it is extremely difficult for the filling station employes—who are few in number in relation to the number of separate dealers they work for—to get together and organize, the oil companies are effectively protected from unionization at the marketing level.

Suppose you want to open a new filling station and sell gasoline for two or four cents cheaper than the big company outlets. The gasoline is the same. You get it from the same refinery where the national brand name companies get theirs. You put a big sign out in front of your station calling attention to your lower price. And business begins to boom.

But not for long. A lot of people tried doing this following World War II, at the end of gasoline rationing. But the major oil companies would not allow the practice then, and they will not allow it now.

First of all, if you try to beat them, they will cut off your supply of gasoline. If they own the refinery, they will refuse to sell to you until you bring your prices into line. If you are getting your wholesale gasoline from a refinery that does not control its own crude oil supply but has to buy crude oil from a major company, they will make the refinery quit selling to you. They can do this by threatening to cut off the supply of crude oil the refinery has to have in order to operate.

That is one way to stifle competition. Another way is for the company to buy you out or convert you to dealer status with them, selling their brand exclusively at their established price. And when you are a dealer who has gone through a price war with the majors, you are a lot more willing to sell out, or convert—or raise your price back up again.

The majors have what they call a one-cent differential. That is, they will not let an unbranded gasoline be sold at a price more than one cent cheaper than their own brands. They will give reduced price-war prices on wholesale gasoline to their own exclusive dealers or reduce their dealers' lease payments. Subsidizing their dealers' losses that way, they will cut retail gasoline prices, as low as necessary for as long as necessary to bring an independent to his knees.

The majors do not compete with *each other* on retail prices. Any time you see big signs out in front of their stations, calling attention to the price of gasoline, you can be sure that you are not getting a better price for long. The real story is that some gutsy independent entrepreneur is on his way to a bad beating.

Price wars not only reduce competition in marketing. They also encourage integration in production and refining. An independent refiner whose independent customer stations get into a price war will soon go under himself, or sell out. And even big oil companies that are only in marketing get the message, too: they must move to control their own crude oil production and refining if they are going to be able to equal the market power of their integrated competitors.

The idea of American mass marketing is that it should deliver a better-quality product to the consumer at a lower price. But the system certainly does not work that way in the gasoline industry. The product is virtually the same from one major brand station to another. And yet the majors have strongly resisted efforts to force them to tell the components of their gasoline—the octane content, for example. Additives are often valueless, except as advertising gimmicks.

An official of Phillips Petroleum, Stanley Learned, admitted in a Federal Trade Commission hearing that the majors exchange gasoline with each other, and he said that each company in effect puts in a pinch of

something to make its gasoline distinctive. "We have an additive that allows us to advertise," he said. "I don't know whether it does anything for gasoline."

But what if a major oil company's *exclusive* dealer decides on his own to increase his sales volume by reducing the price of gasoline? He will have that enterprising thought knocked out of his head pretty rapidly. His short-term lease is likely to be canceled, and his rent may well be raised. Or company-owned stations can reduce their prices to undersell him. The maverick dealer gets the message pretty quick—or he goes under. The message is that the so-called independent dealer for a major company is an indentured servant.

The oil and gas industry is a shared monopoly. Standard Oil of New Jersey, Mobil, Texaco, and Gulf accounted for 55.4 per cent of all petroleum sales in 1970. Jersey Standard alone controlled nearly twenty per cent of sales. In particular areas or regions, the company names are somewhat different but a few of the major companies nevertheless control the market.

A lack of competition in the gasoline industry, as in other industries, results in excessive expenditures, too, for advertising and the promotion of products that are essentially the same and are sold at essentially the same prices. Each major company tries to tie you to its own credit card, which is generally not interchangeable with those of its competitors. This obviously is a wasteful and inefficient practice that runs up costs and increases the consumer's price. Half the cards issued are either used little or not at all, causing enormous and unnecessary extra bookkeeping and financial records.

In the past the majors have sometimes forced their dealers to use trading stamp promotions. The dealers bore most of the cost of trading stamps, and the dealers bear most of the cost of games and contests and special prizes and giveaway items. Consumers pay the rest of the cost. The company's profits go up through increased sales.

The law says that *forcing* a dealer to participate in such a promotional campaign is illegal. But Joseph E. Berger, a dealer for a major oil company, found out that the law is not enforced. He tired of losing money participating in the company's national promotion campaigns, so he threatened to quit sponsoring the promotions. He found out, quickly, what other dealers have found out: the company means business about promotion campaigns. Suddenly his lease was cut to six months, and he was forced out of business anyway, law or no law.

The dealer for a major company also has to carry for sale the company's tires, batteries, and accessories—known in the business as "TBA." Bob Michaud, a Texaco dealer in Maine, decided he did not want to carry Texaco's exclusive TBA line. He came to that decision for a good reason: he could get the same products at a cheaper price through local wholesalers. He was aware that the Supreme Court had ruled that no dealer could be forced to carry only his major company's preferred product. But Texaco trumped up another reason and canceled his lease nevertheless.

One result of this non-competitive marketing system is that the 211,000 filling station operators for major oil companies have an extremely precarious economic existence. The turnover rate of dealers in the gasoline industry is far higher than in comparable industries—as many as forty per cent of the dealers in some markets change jobs every year. Shell's turnover is twenty-six per cent, and the industry average is twenty-four per cent.

While dealers are being pressed to the wall, consumers are paying gasoline prices that are at least six per cent higher than they would be if marketing were competitive. And the big oil companies get bloated on the profits of protected integration, of cutting out competition all the way from the oil field to the filling station.

In late 1970 some large domestic oil producers arbitrarily raised the price of crude oil by twenty-five cents a barrel. But, you may ask, what is to keep foreign-produced oil from flooding into the United States and bringing down domestic prices? The oil companies thought of that question long before you did. For one thing, back in 1959, they got the President of the United States to institute oil import quotas by executive order. Backed up by no law, President Eisenhower simply *decreed* a mechanism for limiting oil imports to protect the domestic price. Its beneficiaries and their political allies sought to justify the system on the basis of national security. It was said that by restricting oil imports we would encourage the finding of more oil here at home; in wartime we would not be dependent on foreign oil. Actually, the decree did not do much for national security, but it certainly made the big oil companies more financially secure at the expense of domestic consumers.

President Nixon's Cabinet Task Force on Oil Import Control reported in 1970 that, but for these import restrictions, the U.S. domestic wellhead price for crude oil—$3 per barrel—would decline, over time, to around $2 per barrel. The President's hand-picked panel found that American consumers were paying $5 billion more each year for oil products than they would have to pay if imports were not restricted. Despite his pronouncements against inflation, President Nixon rejected the recommendations of his own task force for abandoning the oil import quota system.

Any President, by the stroke of a pen, could end the system. But the major oil companies are even prepared for that eventuality. Their trump card is a world oil cartel—they have been allowed to corner production, worldwide.

The arrangement goes back a long way. Standard of New Jersey, Royal Dutch-Shell, and Anglo-Persian (which became British Petroleum) entered into a kind of treaty back in 1928, dividing up the world market and agreeing against surplus production that might bring down the world price of oil. Since then the oil companies have become more devious in such violations of the anti-trust laws, and the U.S. Government has become, if anything, more lax in enforcement. For example, seven major companies—Jersey Standard (now Exxon), Royal Dutch-Shell, British Petroleum, Mobil, Standard of California, Gulf, and Texaco—now control almost all of the production and marketing of Middle Eastern oil.

In 1971 oil cartel companies in the Persian Gulf countries agreed to an increased cost of four cents a barrel. But they were able to jump their selling price by twenty-eight cents a barrel in the Japanese market, because they control that market. By agreement, they sell *residual* fuel oil, which is used for heating, cheaper in Europe than they sell residual oil in the United States, keeping U.S. prices unnaturally high. In short, huge oil companies are allowed to make their own international prices and their own foreign policy.

Again, average Americans pay out of both pockets. They pay out of their consumer pocket in higher fuel prices. They pay out of their taxpayer pocket too, because, strangely enough, oil companies can deduct the U.S. depletion allowance from their *foreign* oil income. Don't forget, this provision was originally justified on the ground that it would spur the discovery of additional domestic oil reserves.

The oil companies are also allowed to reduce their U.S. income taxes by the amount of the tax payment they make to foreign governments. This payment was considered at first a royalty, that is, a justified business expense, not a *credit* against U.S. income taxes. But the oil companies found it enormously more advantageous financially to treat these foreign royalty payments, under agreements negotiated with the potentates of oil-producing countries, as taxes. They then got credit, not a less lucrative deduction from income, but a dollar for dollar credit against actual taxes that they would otherwise have to pay in the United States.

So, while we say that national security and national economic health depend upon finding and producing *domestic* oil, our policies actually give greater encouragement to foreign discovery and production. American oil companies, between 1959 and 1969, spent six times as much for foreign exploration as for domestic.

International oil companies based in the United States avoid taxes on about one-half of their profits through the depletion allowance and by writing off intangible drilling costs. They avoid taxes on three-fourths of the remainder of their income through the foreign tax credit. Five international oil companies headquartered in the United States earned nearly $30 billion between 1962 and 1968. But their total U.S. income tax payment for that entire period was only $1.4 billion—a rate of just 4.7 per cent.

The oil industry's plan is simple, and it has followed it to the letter:

It secures Federal subsidies: by the oil and gas depletion allowance; by the write-off of intangible drilling costs; and by the foreign tax credit.

It eliminates competition: by state proration, limiting domestic production; by exclusive dealership marketing; by merging with or buying competitors; by vertically integrating; and by international cartels and import quotas.

What is left? Competition from other fuels, you say. Again, the oil companies are ahead of you. There is an increasing demand for natural gas, but most domestic gas reserves are now owned by the major oil companies, including the same ones that control international oil. And the Federal Power Commission, which is supposed to regulate gas prices, is largely dependent upon the oil industry for information about reserves and the proper level of prices. In the spring of 1972 the FPC took the oil industry's word—"crisis" is the word—about a shortage in natural gas reserves and, in effect, took the lid off all gas prices. Oil does not have to compete with gas. Both are overpriced. And both fuel sources are owned by the same companies.

In some industries, *coal* should be directly competitive with oil and gas. And in the near future that competition ought to increase—to the benefit of the consumer—because of the new processes for converting coal into synthetic gasoline through "liquefaction" and into synthetic gas through "gasification." But you guessed it, the oil companies have already moved in. Gulf Oil bought Pittsburgh and Midway Coal Company. Continental, the ninth largest oil company, purchased Consolidation, the largest coal company. In the last ten years, seven of the largest independent coal companies have been purchased by non-coal companies. Four of these purchases were made by large oil companies that are also vertically integrated in the oil and gas business.

In addition, Exxon, Kerr-McGee, Atlantic Richfield, and Sun Oil own huge coal reserves. It is supposed to be against the law to buy up the competition, but these violations continue unabated.

It is not just the oil companies that are doing it. Copper companies, steel companies, and railroads, great users of coal and other fuels, are buying up coal companies and coal reserves—controlling their own supply, reducing competition.

Demand for coal has gone up at the rate of five percent a year during the last two years. Production has gone up at the same rate. But coal prices have increased an average of seventy percent. And they have more than doubled in some places.

In uranium it is pretty much the same. Oil companies own nearly half of all known uranium reserves in the United States. New Jersey Standard and Gulf are heavily involved in uranium and atomic energy. Kerr-McGee, by itself, owns nearly one-fourth of the total uranium milling capacity in the country.

The bill oil companies are moving in on *new* energy sources also. They are buying up the oil shale and tar sands in the Rocky Mountains and Canada. Underground steam (hot springs) looks promising as a new power source. So a few big companies, such as Union Oil, Signal, andf Getty, are rapidly gaining control of steam too, though much of it is under *public* lands in California and the other states in the West.

The main "crisis" in energy is that energy sources are monopolized. The twenty-five largest oil companies are all involved also in natural gas. Eighteen of them have invested in oil shale and uranium. Eleven are in coal. Seven are in tar sands. Six of the ten largest oil companies are involved in all four major domestic fuels—oil, gas, coal, and uranium.

The twenty largest oil companies each have more than $1 billion in assets. And seven of the twenty biggest industrial corporations in America are oil companies. You can make a chart showing competition and profits in the oil industry. The competition lines fall downward, *off* the chart. The profits line zooms upward—showing an increase of thirteen per cent in the first half of 1971 alone. Concentrated economic power means a redistribution of income and wealth in the wrong direction. It also translates into political power. The oil companies are trying to monopolize and dominate Government studies of how to solve the "energy crisis."

The "barn horses" have foundered, and we have got to make them well. We have got to get them out in the pasture, rusting for their own keep. That means ending the subsidies—all of them. It means ending the Government-imposed restrictions on competition. It means breaking up monopoly power; stopping vertical integration and exclusive dealerships; ending the international oil cartel; breaking up the big oil companies and their monopoly control of energy sources. It means less regulation; allowing competition between fuels; requiring pipelines to compete with pipelines carrying oil and gas, as the law requires, without discrimination among customers.

That is a hard message to get across. The big oil companies spend millions of dollars in tax-deductible advertising to tell us what a great job they are doing toward cleaning up the environment, while they are really continuing their usual practices. They spend millions more for tax-deductible advertising to convince us that we are well served by the present system of huge subsidies and no competition. Mobil, for example, runs newspaper advertisements headed, A STAGNANT ECONOMY IS THE WORST KIND OF POLLUTION. Its message really boils down to the claim that if the energy industry has to join the free enterprise system, economic growth will be killed.

This message is nonsense, of course. Many people—from members of Congress on down—have swallowed it because the oil industry is organized, politically as well as economically.

The oil lobbyists have long flooded the country with self-serving, one-sided information, playing upon "energy crisis" fears. If the public interest forces marshal and publicize the true facts, maybe soon the people will begin to realize that the real "energy crisis" is not lack of fuel but lack of free, unsubsidized competition.

Mr. McGOVERN. Mr. President, will the Senator from Wisconsin yield to me momentarily?

Mr. NELSON. Mr. President, how much time do I have remaining?

The ACTING PRESIDENT pro tempore. The Senator has 8 minutes remaining.

Mr. NELSON. Mr. President, I yield to the Senator from South Dakota such time as he may desire.

The ACTING PRESIDENT pro tempore. The Senator from South Dakota is recognized.

A NATION THAT RUNS ON OIL NEEDS A NATIONAL ENERGY POLICY

Mr. McGOVERN. Mr. President, I congratulate my distinguished colleague, the Senator from Wisconsin (Mr. NELSON) for his perceptive statement on these three superb articles from the Progessive. I appreciate the fact that the Senator furnished me with an advance copy of the text of what he was going to say today. As he very properly pointed out this series of articles make a vital contribution to the public discussion of what has become known as the energy crisis.

We must not be deluded by the energy industry's call for a comprehensive energy policy. We have had an energy policy all along—at least a series of energy policies—but most of it has been written, not in Washington, but in Houston and Tulsa, as the Progressive points out.

We are told that the administration is about to send the Congress an energy message. Many reporters have predicted that it will recommend relaxation of air quality standards, to permit more burning of coal; deregulation of natural gas prices to permit the companies to charge what the traffic will bear; and increased mining of coal, which means more strip mining and, in the absence of effective legislation, more of our countryside laid waste.

Mr. President, I think that energy crisis is upon us. Progressive Magazine has performed a great service to the Nation in alerting us to the role the oil industry plays as an important part of the fuel sources of the Nation. For many years I have read this magazine with great profit. I think if I had to be limited to one multimagazine this is the one I would pick. Again, they have come forward with an important series of articles that I hope every Member of Congress will read.

The significance of these articles, among the torrent of words being written about energy in recent months, will become increasingly obvious as time goes on. Their content is prophetic, in the best traditions of this magazine which dates back to the days of the late Senator LaFollette of Wisconsin.

Two years ago last December, I told the Midwest Electric Consumers Association that this Nation had, despite a trillion-dollar economy and unparalleled technology, "blundered into a power and fuel emergency which threatens to damage each American citizen."

Now, more than 2 years later, thousands of American citizens have felt that damage. Children were denied schooling in some cities, factories were closed, and barges and planes did not run because they could not get adequate fuel.

As the situation has become worse, the Government has been sitting on its hands. It has continued on the same course that has created this emergency.

We are told that the question of oil import quotas, now "under final review" at the White House, will be one of the subjects of the energy message. Administration comments suggest strongly that only minor tinkering is in store for the import quota system. The President does not need to send us an energy message about the oil import quota system; he needs simply to sign his name to an Executive order which would abolish it for all time.

If the coming energy message were to recommend energy policy which would safeguard the interests of the consumer, the environment and the economy, it would be difficult for its draftsman to do better than to repeat the words of one of the President's former top advisers, S. David Freeman, who resigned as deputy director for energy and the environment of the White House Office of Science and Technology. His views are reported in the articles inserted in the RECORD today.

It is clear that the massive propaganda campaign of the energy companies is pointed at one goal: higher prices for all fuels. It is a sort of blackmail; what they are telling us is, "You give us sharply higher prices, and we will provide your fuel."

There are alternatives, I am pleased to note, to allowing the Nation's pockets to be picked. I have proposed some of those alternatives in legislation, and other Members of this body have made commendable and necessary proposals. Among those are:

First. Elimination of the oil import quota system. If some constraints are needed on foreign supplies, such as inhibiting the import of finished products to prevent the exporting of refinery jobs, a tariff can be applied selectively. I do not minimize the foreign policy problems that arise from dependence on foreign oil, but it seems far more dangerous to continue the "drain America first" policy in which we have been engaged since the Eisenhower years.

Second. Coupled with increased imports should be an effective program of developing a domestic fuel reserve program, including strategic storage of both crude oil and refined products. Western European countries, which are heavily dependent on imports, maintain a reserve of several months' supply, providing a buffer against unforeseen disruptions of supply.

Third. Stimulation of greater competition in the energy industry. The Federal Government should undertake a vigorous program of halting or rolling back monopoly trends which have proceeded at a frightening pace in the energy field. As former Senator Fred Harris points out, the "energy companies" exercise substantial control of not only oil, but natural gas, coal, uranium, oil shale, and tar sands. To paraphrase the current $3 million advertising slogan of the energy companies, "A nation that runs on oil can not afford to have its energy in the hands of a few people."

Fourth. More, not less, regulation of energy prices. Contrary to the energy industry's demands for deregulation of

natural gas at the wellhead, we should seriously consider extending Federal regulation to intrastate as well as interstate gas sales. The 100 percent increase in natural gas prices, suggested by some in the industry, would add $6.6 billion to consumers' gas bills and increase the value of the companies' potential reserves by $300 billion.

Fifth. Establishment of a Federal fuels corporation. Today we have no independent idea of the cost of production of oil or gas. We have only the companies' word for it. We should creat a TVA-like Federal corporation to explore for and develop the abundant fossil fuel reserves which lie under publicly owned lands. It would give us a "yardstick" of the cost of production as well as permitting orderly creation of a strategic fuel reserve.

Sixth. A crash program of energy research. We must greatly accelerate research and development of new means of energy conversion that are environmentally acceptable. The government and the energy industry both have inveted far too little in the search for clean energy. The electric industry alone estimates that it will need to invest $32 billion in R. & D. by the year 2000, and like or greater amounts are needed to develop methods of nonpolluting use of oil and coal, and for such exotic energy sources as nuclear fusion and solar power.

Seventh. Construction of a national power grid. For the second year, Congress has before it a bill to authorize a national network of extra-high-voltage transmission lines to make the Nation's electric utility system more reliable, more efficient and less costly. The economic and environmental advantages of a national grid are compelling reasons for its quick enactment.

Eighth. While we work for more adequate, reasonably priced energy supply, we must greatly intensify energy conservation efforts. Far too much of today's American energy use is wasteful. It makes no sense for most people in major cities to drive to work in 300-horsepower automobiles, when, it has been estimated, energy for personal transportation could be cut by three-fourths if everyone rode buses. Giant office buildings have energy inefficiency designed into them. Many industrial practices have been designed around excessive energy consumption. Adequate Government measures—among them, a truth in energy law which would require disclosure of energy consumption of appliances and machinery—could do much to depress spiraling energy consumption.

Ninth. Reorganization of Federal responsibility for energy policy is long overdue. Forty-four agencies in the executive branch now administer specific energy programs; 20 more have an impact on the U.S. energy pattern. Thirty committees and subcommittees of the Congress, out of a total of 54, handle energy-related problems.

Tenth. Strip mine reclamation. Congress should move swiftly to enact tough and effective legislation which would require adequate reclamation of strip mined land, and prohibit absolutely the strip mining of land which can not be reclaimed economically.

Eleventh. The trans-Canada pipeline. We should enact the legislation which has been introduced to direct the executive branch to begin negotiations with Canada to build a route across that country to move oil from Alaska's Prudhoe Bay to the lower 48 States, and junk the plans to build the costly and environmentally unacceptable trans-Alaska pipeline. Consideration should be given to the proposal of the prime minister of British Columbia last week that the Canadian route be a combination of a pipeline and a railroad.

These eleven points certainly do not constitute a full inventory of our needs. But clearly they are among the steps which must be taken to bring order to the chaotic situation which threatens damage now to millions, not thousands, of Americans who have become more dependent on energy than any other civilization in history.

It was clear during the broadcast of last week's Public Broadcasting show "The Advocates," that the energy companies' program is more inflationary than any other policy currently debated.

Under cross-examination, the president of the Atlantic-Richfield Oil Co., one of the Nation's largest, conceded that his solution to the energy crisis would be increased fuel prices.

Asked whether an increase in fuel prices would not then result in an increase in the cost of every item the consumer buys, to reflect the higher cost of fuel used in production and marketing, the oil company executive answered, "That is right."

Mr. President, there may be justification for modest increases in the cost of some fuels, to reflect higher costs of production including better wages and adequate mine safety, among other things, but the Congress cannot permit the energy crisis to be used to create another crisis—one of picking the pockets of every American to provide windfall profits for the energy companies.

Mr. President, if you will permit another paraphrase, "A nation that runs on oil cannot afford to be robbed."

Mr. President, again I thank the Senator from Wisconsin for his leadership in this field and for calling the attention of the Senate to these articles.

Mr. TOWER. Mr. President, will the Senator from Wisconsin yield to me for a couple of minutes of comment?

Mr. NELSON. I yield.

Mr. TOWER. I thank the Senator. I might say that I agree with some of the things that the Senators from Wisconsin and South Dakota have said. I think at least we need a national energy policy. I think I know something about the effect of the regulation of natural gas, which has been held at artificially low prices. It is a tremendously popular fuel, because it is a low pollutant. The price has been held to such a low level that it cannot now be produced, and we have had to look to liquefied natural gas or, as in the case of Washington, to synthetic gas made out of naphtha.

Yesterday, interestingly enough, the Washington Post editorialized in favor of deregulating the price of natural gas, because already more is being paid for synthetic gas or LNG—three or four times as much as the regulated price of natural gas, if we compare the price of natural gas to synthetic gas, such as is being made in this area and that the utilities are producing now, or imported liquified natural gas.

I think my colleagues should give serious consideration to that matter. It is not a matter of lining some people's pockets, but it is a fact that exploring for that fuel is of a high risk nature and there has to be some incentive in it to attract risk capital.

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

ORDER OF BUSINESS

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

THE NOMINATION OF L. PATRICK GRAY III

Mr. WEICKER. Mr. President, there are two matters that I would like to discuss this afternoon. One is the nomination of L. Patrick Gray, and the second is the accessibility of information to the Select Committee on the Presidential Campaign Activities, also known as the Watergate Committee.

First off, as to Pat Gray, on February 26 I appeared along with my colleague, Senator ABRAHAM RIBICOFF, before the Senate Judiciary Committee to introduce the President's nominee for the Director of the Federal Bureau of Investigation. I made the statement then that Pat Gray was a man of integrity, a man of compassion, a defender of the civil rights of every American, and one who had a firm belief in the spirit, not just the letter, of the Constitution.

Now, 20 days later, Pat's nomination appears to be in jeopardy, not because committee questioning proved him to be any the less than described before the committee, but because he is exactly as advertised. In his short term as Director, he has sought positive change, and though acclaimed by most members of that institution, and I think the public as a whole, there are those within the FBI and allies without who want to rap at Pat Gray because he spent his energies and his efforts as Acting Director in dealing with reality rather than with history.

And, on the other hand, there were those elements within our political structure that felt Mr. Gray did not represent enough change, there were those who objected to the fact that he was a friend of the President of the United States, and there were those who objected to the fact that he did have an affiliation with the Republican Party.

But, Mr. President, all these detractors, coming from different parts of the political spectrum, could not paint a different picture of the man, L. Patrick Gray, than was originally told to the Judiciary Committee by those of us who knew him.

When I left Pat Gray that first day, of committee hearings, I turned to him and said—

Now show them how one solid Nutmegger is more than a match for 16 U.S. Senators.

He said he looked forward to that challenge. And I think he has met it, and met it to his honor and the honor of the State from which he comes.

But now that very integrity, that very impartiality, that very vigor which Pat has always used to determine the truth have created a new group of detractors. And it is probably this latest group which has the greatest chance of undoing his nomination.

The fact is that Pat Gray, did conduct a very thorough investigation into the Watergate incident. He was proud enough of that investigation to make it available to the U.S. Senate, to have all the facts laid before us. But there are wrongdoers within the executive branch who feel that such a Director of the FBI is not acceptable and, therefore, have seen fit to cut the ground from underneath him.

How can this man win? His offer before the Judiciary Commiftee, for each Senator to go down to the Federal Bureau of Investigation and see the FBI files on the Watergate investigation, has now been rescinded, retracted, by the Department of Justice.

So apparently, after all, Pat Gray was too much his own man. Now, in addition to those who objected to Pat Gray because he wanted change within the FBI, to those who objected to Pat Gray because he did not want enough change, to those who objected because he had a loyalty to the President of the United States and was a Republican, we now have a new group—those who fear the independence and integrity of this man from Connecticut.

Mr. President, I proudly introduced him on February 28 because he had these characteristics, and believe me today, I would reintroduce him to the Senate Judiciary Committee as the man best qualified to fill that position. I would hope that the Senate Judiciary Committee would get to the business, the main issue, Pat Gray, and confirm him.

Pat Gray has stood tall. He has answered the most intensive questioning. Even those that started out as his critics came to recognize the character of this man. Even those that questioned his independence and questioned his ability to perform for all of the American people now have to be convinced they were wrong. Let him be feared, not thwarted, by those who, because of his actions, might find themselves in the public light and under public judgment.

SUBPENA DUCES TECUM FOR PRODUCTION OF DOCUMENTS IN THE WATERGATE CASE

Mr. WEICKER. Mr. President, on Friday morning of last week, I telephoned the Acting Director of the FBI and informed him that in accordance with his offer made before the Senate Judiciary Committee, I wished to examine the FBI files on the Watergate matter. Specifically, I indicated that I would personally undertake this task at the offices of the Federal Bureau of Investigation on Saturady and Sunday, March 24 and 25. Director Gray responded that the files would be made available and that FBI personnel would attend to assist in my task.

Several hours later, in a meeting bebetween the Attorney General, Senator SAM ERVIN and Senator HOWARD BAKER, counsel to the majority, Sam Dash, and counsel to the minority, Fred Thompson, an agreement was arrived at which would restrict viewing of these same FBI files to those four individuals.

It is that agreement which cannot be permitted to stand because it would emasculate the function and effectiveness of the other Watergate committee members.

The Senate did not create a two-man committee with five spectators. On the contrary, Senate Resolution 60 provides for full participation by all committee members. Section 3(a)(11) empowers the select committee as an agency of the Senate to have access through the agency of any members of the select committee to any papers in the custody of any department of the executive branch having the power to investigate criminal activities. Senate Resolution 60 does not foreclose committee members from access to FBI reports. Instead access is assured for any members of the select committee.

In light of that language of the resolution, it is doubtful if even the majority of the committee could prevent other committee members from seeing these FBI reports.

The distinguished chairman of the select committee knows that a free press cannot function without access to information. He is chairing hearings at this very moment to safeguard the ability of reporters to gather news. The same is true of Senators. We cannot undertake a thorough investigation of the Watergate affair if we are limited in our access to information.

More important, however, than the legal interpretations of the Senate Resolution 60 is an understanding at the outset of the nature of the trust placed upon each member of this committee. I pointed out when named to the Watergate committee the importance of a result that would restore the faith of the American people in their political system and its participants.

Now, whether it is the President of the United States, White House personnel, the Federal Bureau of Investigation, the Attorney General, the Select Committee on Presidential Campaign Activities, or the Senate itself, insofar as this investigation is concerned, there can be no agreements, there can be no executive privilege, there can be no closed hearings. That is the nature of the trust that Watergate and the accumulation of "Watergates" over the past several years has thrust upon us.

In response to the restrictions placed upon me and also, I believe, in furtherance of the objectives of the U.S. Senate, I am today taking two initiatives.

First. Pursuant to section 3(a)(5) of Senate Resolution 60, I am asking the members of the select committee to authorize the issuance of subpenas duces tecum to the Attorney General and to the Acting Director of the FBI for the production of all reports, documents and other files in their possession which bear upon our committee's investigation.

Second. In light of the lack of cooperation as evidenced by first, the President's invocation of executive privilege and second, the countermanding of Acting Director Gray's offer to the Senate of producing FBI files, it is clear that the Senate of the United States will have to create its own investigative capability. The issue of integrity in Government is as important as any matter before this Chamber. I will therefore make available to the select committee additional investigative and legal personnel to assist in this endeavor.

In conclusion, let me say this. No agony over the failure of this Congress to pass a housing program, no agony over the failure of Congress to vote in a veterans' benefit, no agony over the failure of Congress to initiate a health plan or any of these other great issues of national importance will be as great as the agony of a nation living with and operating under a political system that it does not trust. That—and not the separation of powers—is the problem that confronts us all.

RESCISSION OF ORDER RECOGNIZING SENATOR ROBERT C. BYRD

The ACTING PRESIDENT pro tempore. Under the previous order, the Senator from West Virginia is now recognized for not to exceed 15 minutes.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that my order be vacated.

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

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 for not to exceed 15 minutes with statements limited therein to 3 minutes. Is there further morning business?

Mr. ROBERT C. BYRD. Mr. President, does the Senator from Connecticut (Mr. WEICKER) have any morning business?

Mr. WEICKER. I have no morning business.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

The ACTING PRESIDENT pro tempore (Mr. BIDEN) laid before the Senate

the following letters, which were referred as indicated:

REPORT ON OVEROBLIGATION OF APPROPRIATIONS

A letter from the Deputy Director, Office of Management and Budget, Executive Office of the President, reporting, pursuant to law, that certain appropriations had been apportioned on a basis which indicates the necessity for supplemental estimates of appropriations, for the fiscal year 1973 (with an accompanying paper); to the Committee on Appropriations.

REPORT ON LOAN TO CENTRAL ELECTRIC POWER COOPERATIVE, INC.

A letter from the Administrator, Rural Electrification Administration, Department of Agriculture, reporting, pursuant to law, on a loan to Central Electric Power Cooperative, Inc., of Cayce, S.C. (with an accompanying report); to the Committee on Appropriations.

REPORT OF DEFENSE DEPARTMENT OF INDEPENDENT RESEARCH AND DEVELOPMENT AND BID AND PROPOSAL COSTS

A letter from the Acting Assistant Secretary of Defense (Installations and Logistics), reporting, pursuant to law, on independent research and development and bid and proposal costs in the years 1971 and 1972 (with an accompanying report); to the Committee on Armed Services.

PROPOSED LEGISLATION FROM THE DEPARTMENT OF DEFENSE

A letter from the General Counsel of the Department of Defense, transmitting a draft of proposed legislation to amend title 38, United States Code, to encourage persons to join and remain in the Reserves and National Guard by providing full-time coverage under Servicemen's Group Life Insurance for such members and certain members of the Retired Reserve up to age 60 (with an accompanying paper); to the Committee on Armed Services.

REPORT ON EXPORT CONTROL

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report on Export Control covering the fourth quarter of 1972 (with an accompanying report); to the Committee on Banking, Housing and Urban Affairs.

REPORT OF THE MARITIME ADMINISTRATION

A letter from the Secretary of Commerce, transmitting, pursuant to law, a report of the Maritime Administration for fiscal year 1972 (with an accompanying report); to the Committee on Commerce.

PROPOSED LEGISLATION FROM THE DEPARTMENT OF STATE

A letter from the Acting Assistant Secretary for Congressional Relations, Department of State, transmitting a draft of proposed legislation to give effect to the International Convention for the Conservation of Atlantic Tunas, signed at Rio de Janeiro May 14, 1966, by the United States of America and other countries, and for other purposes (with an accompanying paper); to the Committee on Commerce.

STATISTICS OF PRIVATELY OWNED ELECTRIC UTILITIES IN THE UNITED STATES, 1971

A letter from the Chairman, Federal Power Commission, transmitting, for the information of the Senate, a copy of the publication "Statistics of Privately Owned Electric Utilities in the United States, 1971" (with an accompanying document); to the Committee on Commerce.

REPORT ON INTERCITY RAIL PASSENGER SERVICE

A letter from the Secretary of Transportation, reporting, pursuant to law, on intercity rail passenger service, dated March 1973 (with an accompanying report); to the Committee on Commerce.

REPORT ON IMPACT OF EXTENSION OF UNEMPLOYMENT INSURANCE TO AGRICULTURE

A letter from the Secretary of Labor, transmitting, pursuant to law, a report on the effect and impact of extending unemployment insurance coverage to agricultural labor, dated October 31, 1972 (with an accompanying paper and report); to the Committee on Finance.

REPORT OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report, "United States Interests and Activities in Nepal," Department of State, Agency for International Development, Peace Corps and U.S. Information Agency, dated March 16, 1973 (with an accompanying report); to the Committee on Government Operations.

LIST OF REPORTS OF THE GENERAL ACCOUNTING OFFICE

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a list of reports of the General Accounting Office for February 1973 (with an accompanying paper); to the Committee on Government Operations.

PROPOSED LEGISLATION OF THE DEPARTMENT OF THE INTERIOR

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to amend certain laws relating to Indians (with an accompanying paper); to the Committee on Interior and Insular Affairs.

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to provide for the creation of the Indian Trust Counsel Authority (with accompanying papers); to the Committee on Interior and Insular Affairs.

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to provide for financing and economic development of Indians and Indian organizations (with accompanying papers); to the Committee on Interior and Insular Affairs.

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to establish within the Department of the Interior the position of an additional Assistant Secretary of the Interior, and for other purposes (with an accompanying paper); to the Committee on Interior and Insular Affairs.

A letter from the Acting Assistant Secretary of the Interior, transmitting a draft of proposed legislation to provide for the assumption of the control and operation by Indian tribes and communities of certain programs and services provided for them by the Federal Government, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to retain coverage under the laws providing employee benefits, such as compensation for injury, retirement, life insurance, and health benefits for employees of the Government of the United States who transfer to Indian tribal organizations to perform services in connection with governmental or other activities which are or have been performed by Government employees in or for Indian communities, and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

A letter from the Acting Secretary of the Interior, transmitting a draft of proposed legislation to amend acts entitled "An act authorizing the Secretary of the Interior to arrange with States or territories for the education, medical attention, relief of distress, and social welfare of Indians, and for other purposes", and "To transfer the maintenance and operation of hospital and health facilities for Indians to the Public Health Service, and for other purposes," and for other purposes (with accompanying papers); to the Committee on Interior and Insular Affairs.

PROPOSED LEGISLATION OF THE U.S. WATER RESOURCES COUNCIL

A letter from the Chairman, U.S. Water Resources Council, transmitting a draft of proposed legislation to amend the Water Resources Planning Act to provide for continuing authorization for appropriations (with accompanying papers); to the Committee on Interior and Insular Affairs.

REPORT AND OPINION AND FINDINGS OF FACT OF U.S. COURT OF CLAIMS

A letter from the Chief Commissioner, U.S. Court of Claims, transmitting, pursuant to law, their report and opinion and findings of fact in the case of H & H Manufacturing Co., Inc. v. the United States, (with an accompanying report and paper); to the Committee on the Judiciary.

MEMBERS OF COMMISSION ON REVISION OF THE FEDERAL COURT APPELLATE SYSTEM OF THE UNITED STATES

A letter from the Chief Justice, Supreme Court of the United States, transmitting, pursuant to law, a list of members of the Commission on Revision of the Federal Court Appellate System of the United States; to the Committee on the Judiciary.

PROPOSED LEGISLATION FOR ACTION

A letter from the Acting Director of ACTION, transmitting a draft of proposed legislation to authorize appropriations for ACTION, and for other purposes (with an accompanying paper); to the Committee on Labor and Public Welfare.

PROPOSED LEGISLATION BY DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to protect the public health by amending the Federal Food, Drug, and Cosmetic Act to assure the safety and effectiveness of medical devices (with accompanying papers); to the Committee on Labor and Public Welfare.

A letter from the Secretary of Health, Education, and Welfare, transmitting a draft of proposed legislation to strengthen education by consolidating certain elementary and secondary education grant programs through the provision of a share of the revenues of the United States to the States and to local educational agencies for the purpose of assisting them in carrying out education programs reflecting areas of national concern (with accompanying papers); to the Committee on Labor and Public Welfare.

VA REPORT ON RELIEF FROM ADMINISTRATIVE ERROR

A letter from the Administrator, Veterans' Administration, transmitting, pursuant to law, a report covering certain cases recommended for equitable relief during calendar year 1972 (with an accompanying report); to the Committee on Veterans' Affairs.

PROPOSED LEGISLATION BY THE VETERANS' ADMINISTRATION

A letter from the Administrator, Veterans' Administration, transmitting a draft of proposed legislation to amend title 38, United States Code, to require that certain veterans receiving hospital care from the Veterans' Administration for non-service-connected disabilities be charged for such care to the extent that they have health insurance or similar contracts with respect to such care; to prohibit the future exclusion of such coverage from insurance policies or contracts; and for other purposes (with an accompanying paper); to the Committee on Veterans' Affairs.

A letter from the Administrator, Veterans, Administration, transmitting a draft of proposed legislation to amend chapter 39 of title 38, United States Code, to provide the same eligibility criteria for automobiles and adaptive equipment for Vietnam era veterans as are applicable to veterans of World War II and the Korean conflict (with an accompanying paper); to the Committee on Veterans' Affairs.

PROPOSED LEGISLATION BY COUNCIL ON ENVIRONMENTAL QUALITY

A letter from the Chairman, Council on Environmental Quality, Executive Office of the President, transmitting a draft of proposed legislation to authorize further appropriations for the Office of Environmental Quality, and for other purposes (with an accompanying paper); to the Committee on Public Works.

REPORT ON SPECIAL BRIDGE REPLACEMENT PROGRAM

A letter from the Secretary of Transportation, transmitting, pursuant to law, the second annual report on the Special Bridge Replacement program, dated December, 1972 (with an accompanying report); to the Committee on Public Works.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. BIDEN):

A joint resolution of the Legislature of the State of Alaska; to the Committee on Finance:

"HOUSE JOINT RESOLUTION NO. 31

"Joint resolution relating to the federal highway trust funds

"Be it resolved by the Legislature of the State of Alaska:

"Whereas the urban and rural street and highway needs of all of the states, and especially those of Alaska, far exceed available revenues under present funding; and

"Whereas the orderly improvement and development of the nation's road systems is essential to continued economic growth as well as for the many related benefits accruing therefrom, such as improved highway safety and the social and recreational values for which adequate highways are necessary; and

"Whereas the special taxes paid, in good faith, only by highway users for highway purposes have been withheld by the executive branch of our national government, contrary to congressional intent; and

"Whereas in addition there are concerted efforts being made constantly to divert and reduce these highway funds so that they may be utilized to finance mass transit systems and for other non-highway purposes;

"Be it resolved by the Alaska Legislature that the President of the United States is urged to take all immediate action to have the withheld federal highway trust fund money distributed to the states; and be it

"Further resolved that the Congress of the United States is urged to take any and all action necessary to preserve the federal highway trust fund money for highway uses only; and be it

"Further resolved that the Congress take immediate appropriate action to guarantee that highway trust funds, as well as other funds, allocated to the states by the Congress be paid promptly to them and to make clear and definite that the executive branch shall not withhold such allocated funds, in whole or in part.

"Copies of this Resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable Roy L. Ash, Director, Office of Management and Budget; the Honorable Carl Albert, Speaker of the House; the Honorable James O. Eastland, President Pro Tempore of the Senate; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U. S. Senators, members of the Alaska delegation in Congress."

A joint resolution of the Legislature of the State of Maine; to the Committee on Foreign Relations:

"JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND CONGRESS OF THE UNITED STATES TO OBTAIN A FULL ACCOUNTING OF POW'S AND MIA'S

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Sixth Legislative Session assembled, most respectfully present and petition the President and Congress of the United States, as follows:

"Whereas, the North Vietnamese and their allies have not as agreed, satisfactorily accounted for all prisoners of war or persons missing in action; and

"Whereas, the recent list of 555 prisoners of war released by North Viet Nam in response to agreement, does not include names of 56 known prisoners of war and is considered no more accurate than their earlier lists; and

"Whereas, the United States Government has received the names of only 7 of 317 servicemen known to be missing in Laos; and

"Whereas, the tragedy of leaving American prisoners behind previously experienced in Korea must not be repeated; and

"Whereas, approximately 1,400 families must not be abandoned to live in torturous anxiety as to the whereabouts of their loved ones; now, therefore, be it

"Resolved: That we, your Memorialists, respectfully recommend and urge the President and Congress of the United States to consider the feeling of this State expressed in the foregoing preamble as well as those of the Nation and to do everything within their power to obtain a satisfactory and complete accounting of all prisoners of war and persons missing in action; and be it further

"Resolved: That the Secretary of State be directed to transmit forthwith suitable copies of this Memorial to the President of the United States, to the Speaker of the House of Representatives and the President of the Senate of the United States Congress and to the Members of said Senate and House of Representatives from the State of Maine."

A joint resolution of the Legislature of the State of Maine; to the Committee on the Judiciary:

"JOINT RESOLUTION MEMORIALIZING CONGRESS FOR THE PURPOSE OF AMENDING THE U.S. CONSTITUTION RELATIVE TO ABORTION

"We, your Memorialists, the Senate and House of Representatives of the State of Maine in the One Hundred and Sixth Legislative Session assembled, most respectfully present and petition your Honorable Body as follows:

"Whereas, medically and scientifically a human embryo or fetus exists as a living and growing human individual from the moment of conception; and

"Whereas, the moment of birth represents merely an identifiable point along the course of human development and not the beginning of human life; and

"Whereas, respect for human life has been a hallmark of civilized society for millennia; and

"Whereas, the Maine Legislature has supported and shown concern for the life of the unborn child by rejecting all attempts to liberalize, modify or change the State's abortion law; and

"Whereas, the United States Supreme Court by decision has ruled against the unborn; and

"Whereas, the Maine Legislature wishes to establish and define the rights of the unborn; now, therefore, be it

"Resolved: By your Memorialists, that the United States Congress propose an amendment to the Constitution of the United States to read:

"1. As used in the Fifth and Fourteenth Articles of Amendment to the Constitution of the United States, dealing with the deprivation of life, the word 'person' shall apply to every human being regardless of the stage of his biological development.

"2. Nothing herein shall prohibit any state from adopting such laws as are necessary to preserve the life of the expectant mother.

"3. Congress and the several states shall have the power to enforce this amendment by appropriate legislation; and be it further

"Resolved: That certified copies of this resolution be immediately transmitted by the Secretary of State to the President of the Senate and the Speaker of the House of Representatives of the United States Congress, to each Member of the Maine Congressional Delegation and to the Legislatures of each of the several states attesting the adoption of this resolution by the One Hundred and Sixth Legislature of the State of Maine."

A resolution of the Senate of the State of Maryland; to the Committee on the Judiciary:

"SENATE JOINT RESOLUTION NO. 8

"Senate Joint Resolution urging the Congress of the United States to take such action as is constitutional to preclude the transfer of students by massive busing within a school district for the purposes of effecting a racial balance

"Whereas, this General Assembly and the members thereof are committed to the protection of the Constitutional rights of all the citizens of Maryland; and

"Whereas, in 1954, the Supreme Court of the United States in the landmark case of *Brown vs. Topeka Board of Education* held that the maintenance of legally segregated schools was a violation of the U.S. Constitution; and

"Whereas, the busing of black students past the schools closest to their homes was the means of accomplishing the segregation of certain school districts; and

"Whereas, as a result of subsequent court decisions it was held that in order to preclude a segregated system of education, children should be assigned to the schools within which district boundary they resided; and

"Whereas, the neighborhood school can be and is a vital link in the lifeblood of every community and in most areas serves as an activity center for the community, as well as an educational institution; and

"Whereas, the mandatory transfer of students solely because of their race to achieve arbitrary racial quotas is as invidious today as it was prior to 1954; and

"Whereas, the Federal Courts have ordered the transfer of 32,823 students from their neighborhood schools in order to achieve racial quotas in certain schools; and

"Whereas, the effectuation of racial quotas in schools has no significant demonstrated effect on the quality of education in those schools or upon the achievements of the students of those schools; and

"Whereas, in the case of Prince George's County, the Federal Courts have ordered the transfer of approximately one-fifth of the school population in the middle of the school year which educators advised the Court would result in substantial educational detriment to all the students of the system, not to mention the intangible injury to students active in extra-curricular activities, and the emotional trauma of students having to reacclimate themselves to their school environment; and

"Whereas, a great majority of the people of Prince George's County, the State of Maryland, and the United States believe that the mandatory transfer of students to attain racial quotas or balance in schools is unwise in terms of community involvement in the educational process and educationally unnecessary in a quest for quality education for all our children; and

"Whereas, neither the Governor, the Gen-

eral Assembly, the local governing authorities, including the local boards of education, nor any other state or local organ of government has the power to negate or alter an order of a Federal Court; and

"Resolved by the General Assembly of Maryland, That they hereby urge the Congress of the United States to take such action as is constitutional to preclude the transfer of students by massive busing within a school district for the purposes of effecting a racial balance; and be it further

"Resolved, That copies of this Joint Resolution be forwarded to every member of the United States Senate and House of Representatives."

A concurrent resolution of the Legislature of the State of Mississippi; to the Committee on the Judiciary:

"HOUSE CONCURRENT RESOLUTION No. 14

"A concurrent resolution applying to the Congress for a Convention to propose an amendment to the Constitution of the United States

"Resolved, That the Legislature of the State of Mississippi, pursuant to Article V of the Constitution of the United States, makes application to the Congress of the United States to call a convention for the proposing of the following amendment to the Constitution of the United States:

"ARTICLE —

"Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public building which is supported in whole or in part through the expenditure of public funds, to participate in voluntary prayer'; and be it further

"Resolved, That this application by the Legislature of the State of Mississippi constitutes a continuing application in accordance with Article V of the Constitution of the United States until at least two-thirds of the legislatures of the several states have made similar applications pursuant to Article V, but if Congress proposes an amendment to the Constitution identical with that contained in this resolution before January 1, 1974, this application for a state application shall no longer be of any force or effect; and be it further

"Resolved, That since this method of proposing amendments to the Constitution has never been completed to the point of calling a convention and no interpretation of the power of the states in the exercise of this right has ever been made by any court or any qualified tribunal, if there be such, and since the exercise of the power is a matter of basic sovereign rights and the interpretation thereof is primarily in the sovereign government making such exercise and since the power to use such right in full also carries the power to use such right in part, the Legislature of the State of Mississippi interprets Article V to mean that if two-thirds of the states make application for a convention to propose an identical amendment to the Constitution for ratification with a limitation that such amendment be the only matter before it, that such convention would have power only to propose the specified amendment and would be limited to such proposal and would not have power to vary the text thereof nor would it have power to propose other amendments on the same or different propositions; and be it further

"Resolved, That a duly attested copy of this resolution be immediately transmitted to the Secretary of the Senate of the United States, the Clerk of the House of Representatives of the United States, to each member of the Congress from this State and to each House of each State Legislature in the United States."

A concurrent resolution of the General Assembly of the State of South Carolina; to the Committee on Agriculture and Forestry:

"H. 1542

"A concurrent resolution expressing support of the South Carolina General Assembly for the enactment of a Federal forestry incentives program as expressed in H.R. 8 by Congressman Sikes of Florida and to memorialize the Congress of the United States to enact such legislation

"Whereas, almost two million acres of abandoned cropland and cutover unproductive woodland have been planted to forest trees during the past thirty years in South Carolina; and

"Whereas, incentive programs of Soil Bank and REAP have substantially contributed to this reforestation effort, accounting for approximately one million acres of the reforestation by private non-industrial owners; and

"Whereas, increased growth potential of commercial forest trees as shown by the 1968 Forest Survey has encouraged forest industry to invest new capital in the State for logging equipment, sawmills, plywood plants, hardwood manufacturers and pulp manufacturers, amounting to approximately two hundred fifty million dollars during the past five years; and

"Whereas, reduction of reforestation on small private ownerships will discourage new industry and could in fact result in decreased environmental protection and improvement; and

"Whereas, there are more than three million acres of unproductive cutover woodland owned by small private non-industrial owners which could contribute substantially to South Carolina's economy if reforested; and

"Whereas, forests are a renewable resource providing multiple benefits to everyone, such as watershed protection, wildlife habitat, recreation areas, esthetic improvement, etc., contributing to cleaner air and noise abatement; and

"Whereas, harvesting of mature forests, and using these products, can help relieve the energy crisis since building material from wood requires four to eight times less energy to manufacture than does steel and concrete and at the same time does not deplete a non-renewable resource. Now, therefore,

"Be it resolved by the House of Representatives, the Senate concurring:

"That the General Assembly of South Carolina does hereby express its support for Federal legislation proposed (H.R. 8—Mr. Sikes, Florida) which will provide Federal funds for forestry incentive payments to non-Federal public and to non-industrial private landowners to do reforestation and other forest management practices, and it does respectfully request South Carolina's Congressional Delegation to work for implementation of such legislation.

"Be it further resolved that copies of this resolution be forwarded to each member of the South Carolina Congressional delegation, the President of the United States Senate and the Speaker of the House of Representatives in Washington, D.C."

A concurrent resolution of the Legislature of the State of South Dakota; to the Committee on Veterans' Affairs:

"HOUSE CONCURRENT RESOLUTION No. 517

"A concurrent resolution memorializing the Congress of the United States to take immediate action to prohibit the Veterans Administration from cutting benefits presently available to United States veterans

"Be it resolved by the House of Representatives of the State of South Dakota, the Senate concurring therein:

"Whereas, the Disabled American Veterans is a national chartered veterans organization whose prime objective is looking after the best interests of our disabled veterans, their widows and orphans; and

"Whereas, the Department of South Dakota Disabled American Veterans operates under the same national charter authorized by the Congress of the United States; and

"Whereas, the Veterans Administration acting as an agency of the Executive Department of the United States government has proposed to change the rating schedule for disability compensation, to remove all burial benefits for all veterans, to cut medical research programs, to cut readjustment benefits and to decrease other benefits signed into law under H.R. 12828 and H.R. Res. 748 as recently as October 24, 1972; and

"Whereas, the Disabled American Veterans are chartered for the sole purpose of protecting and maintaining the benefits for veterans, widows and orphans who have served their country in time of need; and such action as is proposed by the Veterans Administration would be extremely detrimental to all veterans:

"Now, therefore, be it resolved, by the House of Representatives of the Forty-eighth Legislature of the state of South Dakota, the Senate concurring therein, that the Congress of the United States be memorialized to take whatever immediate action might be necessary to prohibit the Veterans Administration or any other person or agency of the Executive Branch of the United States Government from taking any administrative or other action to change or alter the present veterans benefits programs which have been enacted into law by the Congress and signed into law by the President of the United States, and

"Be it further resolved, that copies of this concurrent resolution be transmitted by the chief clerk of the South Dakota House of Representatives, the offices of the President and Vice President of the United States, the Speaker of the House of Representatives of the United States, the members of the South Dakota Congressional delegation, the Governor of South Dakota and to the United States Administrator of Veterans Affairs."

A resolution of the Legislature of Guam; to the Committee on Interior and Insular Affairs:

"RESOLUTION No. 43

"Resolution relative to respectfully requesting the Congress of the United States to amend Section 11 of the Organic Act of Guam which prohibits public indebtedness of Guam in excess of ten percent of the aggregate tax evaluation of property in Guam

"Be it resolved by the Legislature of the Territory of Guam:

"Whereas, the government of Guam is facing a fiscal crisis because of the ever-increasing demands for public services and capital improvements by a population increasing at a rate perhaps greater than that of any other American community, the median age of Guam's inhabitants being fourteen, over twelve years younger than that of the United States at large, and the number of immigrants coming to Guam from the surrounding nations of the Far East being so high as to substantially distort upwards the population growth curve, and while tax revenues of the government are increasing, the increase is not great enough to keep up with either the explosive population growth rate or the new demands made by an economy no longer able to depend upon military spending alone; and

"Whereas, in casting about for other means of financing capital improvements, particularly for public schools so badly needed in Guam, the Legislature has investigated the issuance of general obligation bonds of the territory but has found that the proviso in Section 11 of the Organic Act of Guam which limits such bonds to ten percent of the aggregate tax valuation of property in Guam effectively prevents the use of these bonds at all since any general obligation bond issue would have to be so small that it would not be worth the trouble and expense of arranging; and

"Whereas, since the territory wishes to stand on its own feet insofar as it is able

to do so, it is hopeful that Congress will take a second look at this provision of the Organic Act and remove this artificial limitation so as to permit the people of Guam to issue general obligation bonds in reasonable amounts; now therefore be it

"Resolved, that the Twelfth Guam Legislature does hereby on behalf of the people of Guam respectfully request, petition and memorialize the Congress of the United States of America to amend Section 11 of the Organic Act of Guam to remove the provision therein that no public indebtedness of Guam shall be authorized in excess of ten percent of the aggregate tax valuation of property in Guam; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the Secretary of the Interior, to the Speaker of the House of Representatives, to the President of the Senate, to the Chairmen of the Committees on Interior and Insular Affairs, U.S. Senate and House of Representatives, to the Washington Delegate and to the Governor of Guam."

A joint resolution of the Congress of Micronesia; to the Committee on Interior and Insular Affairs:

"HOUSE JOINT RESOLUTION No. 35

"A House joint resolution requesting that the President of the United States of America and the United States Congress grant a role to the Congress of Micronesia in selecting and appointing the High Commissioner

"Whereas, the time has come for Micronesians to participate in the selection of the head of the executive branch of their own government; now, therefore,

"Be it resolved by the House of Representatives of the Fifth Congress of Micronesia, First Regular Session, 1973, the Senate concurring, that the President of the United States of America and the United States Congress are hereby requested to grant a role to the Congress of Micronesia in selecting and appointing the High Commissioner; and

"Be it further resolved that certified copies of this House Joint Resolution be transmitted to the President of the United States, the Chairman of the United Nations Trusteeship Council, the President of the United States Senate, the Speaker of the House of Representatives of the United States Congress, the United States Secretary of the Department of the Interior, and the High Commissioner."

A resolution adopted by the Morehouse Parish Police Jury, of Bastrop, Louisiana, expressing opposition to the proposal of the United States to rebuild North Viet Nam; to the Committee on Foreign Relations.

A resolution adopted by the Catahoula Parish Police Jury, of Harrisonburg, Louisiana, expressing objection to the proposed rebuilding of the country of North Viet Nam; to the Committee on Foreign Relations.

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. GOLDWATER (for himself, Mr. BEALL, Mr. BROCK, Mr. BUCKLEY, Mr. CURTIS, Mr. DOMINICK, Mr. ERVIN, Mr. FANNIN, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MCGOVERN, Mr. MOSS, Mr. PACKWOOD, Mr. PERCY, Mr. SCOTT of Pennsylvania, and Mr. THURMOND):

S. 1296. A bill to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. BIDEN:

S. 1297. A bill to amend the Disaster Relief Act of 1970 to provide for disaster assistance in the case of substantial economic loss resulting from other than natural causes. Referred to the Committee on Public Works.

By Mr. HATHAWAY:

S. 1298. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. SYMINGTON:

S. 1299. A bill to amend title I of the Housing Act of 1949 to permit a city whose population falls to below 50,000 to convert any outstanding urban renewal projects from a two-thirds to a three-fourths capital grant formula. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. EASTLAND (for himself, Mr. MCCLELLAN, Mr. HRUSKA, Mr. COOK, and Mr. GURNEY) (by request):

S. 1300. A bill to assure the imposition of appropriate penalties for persons convicted of offenses involving heroin or morphine, to provide emergency procedures to govern the pretrial and post-trial release of persons charged with offenses involving heroin or morphine, and for other purposes. Referred to the Committee on the Judiciary.

By Mr. INOUYE:

S. 1301. A bill for the relief of Mr. Keun Bae Kim. Referred to the Committee on the Judiciary.

By Mr. EAGLETON:

S. 1302. A bill to provide increased unemployment compensation benefits for Vietnam era veterans. Referred to the Committee on Finance.

By Mr. PELL:

S. 1303. A bill to designate the first Saturday in November as the day for Federal elections. Referred to the Committee on Rules and Administration.

By Mr. STEVENS:

S. 1304. A bill to amend certain provisions of Title XI of the Organized Crime Control Act of 1970 relating to explosives. Referred to the Committee on the Judiciary.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 1305. A bill to provide for the establishment of the post cemetery at Fort Richardson, Alaska, as a national cemetery. Referred to the Committee on Veterans' Affairs.

By Mr. STEVENS (for himself, Mr. GRAVEL, and Mr. CANNON):

S. 1306. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes. Referred to the Committee on Government Operations.

By Mr. STEVENS:

S. 1307. A bill to amend the Small Reclamation Projects Act of 1956, as amended. Referred to the Committee on Interior and Insular Affairs.

By Mr. BURDICK:

S. 1308. A bill to provide for the setting aside of convictions in certain cases and for other purposes. Referred to the Committee on the Judiciary.

By Mr. BURDICK (by request):

S. 1309. A bill to provide for the setting aside of convictions in certain cases and for other purposes. Referred to the Committee on the Judiciary.

By Mr. TUNNEY:

S. 1310. A bill to provide for control of meat prices through limitation on exportation of meat products from the United States. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. GRIFFIN (for himself, Mr. ALLEN, Mr. SPARKMAN, Mr. COTTON, and Mr. COOK):

S. 1311. A bill to amend the Communications Act of 1934 to provide that renewal licenses for the operation of a broadcasting station may be issued for a term of 5 years and to establish certain standards for the consideration of applications for renewal of broadcasting licenses. Referred to the Committee on Commerce.

By Mr. CASE:

S. 1312. A bill for the relief of Mrs. Barbara Joseph. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GOLDWATER (for himself, Mr. BEALL, Mr. BROCK, Mr. BUCKLEY, Mr. CURTIS, Mr. DOMINICK, Mr. ERVIN, Mr. FANNIN, Mr. HATFIELD, Mr. HELMS, Mr. HOLLINGS, Mr. HRUSKA, Mr. HUMPHREY, Mr. JAVITS, Mr. KENNEDY, Mr. MANSFIELD, Mr. MCGOVERN, Mr. MOSS, Mr. PACKWOOD, Mr. PERCY, Mr. SCOTT of Pennsylvania, and Mr. THURMOND):

S. 1296. A bill to further protect the outstanding scenic, natural, and scientific values of the Grand Canyon by enlarging the Grand Canyon National Park in the State of Arizona, and for other purposes. Referred to the Committee on Interior and Insular Affairs.

ENLARGING THE GRAND CANYON NATIONAL PARK

Mr. GOLDWATER. Mr. President, I propose a bill today for myself and other Senators that would more effectively protect and secure for future generations that magnificent creation of God we call the Grand Canyon of Arizona. A companion bill is being introduced in the House of Representatives today by Congressman UDALL of Arizona.

Mr. President, our legislation will return to the original grand scheme of President Benjamin Harrison, who in 1886, while a Senator, first attempted to create the Grand Canyon National Park as one vast entity encompassing the entire canyon and its principal side tributaries. It took 30 years until the plan of Benjamin Harrison finally became a fact in law with creation of the national park on February 26, 1919; and then it was emasculated, cut in size so that instead of becoming the Nation's largest park, it ranked eighth with 673,575 acres.

The bill we introduce today will almost double this size. It will brong together within a single park all of the canyon which is now divided among the existing national park and national monument, the Marble Canyon National Monument, and a part of the Lake Mead National Recreation Area, a boundary that will reach from the southern border of Glen Canyon National Recreation Area on the east to the Grand Wash Cliffs on the west.

The largest addition to the park is a sweep of land of approximately 331,500 acres within the canyon rim which stretches along the north side of the Colorado River from the present national monument to the Grand Wash Cliffs. In addition, the bill will place into the park an additional 36,280 acres in Kanab Creek and Lower Kanab Canyon, where the northern boundaries of the present national park and national monument meet, and 640 acres at Coconino Plateau

which is near the southeastern tip of the park.

In all, the total acreage of the new park would become 1,196,925 acres. This would mean that the Grand Canyon National Park would jump from eighth to fourth place in size among all of America's national parks.

More significantly, it would mean that 273 river miles of the canyon would be protected within the new park. This is three times the 90 miles that are now within the national park.

Also, passage of the bill would mean that for the first time the Congress would recognize the concept that the entire area, above and below, that comprises the Grand Canyon, from Lees Ferry to the Grand Wash Cliffs, is one natural, geographic entity deserving of protection and interpretation as a whole. Although the bill does not extend the boundaries of the park into the Glen Canyon National Recreation Area, which was redefined by Congress only last year in Public Law 92–593 and already includes Lees Ferry, it does provide specific authority in section 6 for the establishment of an ecological "zone of influence" on the park which the sponsors of the bill fully expect will be drawn so as to cover the 4.5-mile gap of the Colorada River from Lees Ferry south to Navajo Bridge where the park boundaries will begin.

Mr. President, the "Grand Canyon zone of influence" to which I have referred is unquestionably one of the major features of the bill we are introducing. It is modeled from the suggestion of certain members of the Sierra Club for a "conservation zone" back from the rim of the canyon, which in turn was an improvement over an earlier idea of mine for a "scenic easement zone." The new "zone of influence" concept which I have finally settled on is put forward in the hope that all concerned groups, the conservationists, ranchers, and wildlife interests, can support this as a fresh approach to protecting the canyon's environs.

What section 6 does is to authorize and direct the Secretary of Interior to establish an area adjacent to or near the park, as enlarged by the bill, where he believes it is appropriate to have a coordinated protective management in order to safeguard against any new developments or activities which would impair the natural beauty, natural environment, or interpretative and recreational values of the park itself. The grazing of livestock, range improvement, hunting, and fishing would be uninterrupted in this area, but other activities which may have an adverse influence on the nearby canyon and park, such as mining and road construction, would be restricted.

While section 6 does not designate on a map, the precise area outside the park which must be included in the "zone of influence," it allows the Secretary of the Interior to define such zone as including any area where he feels unrestricted activities might injure the canyon or park proper. Accordingly, the zone which he proclaims might well be larger in fact than any zone which one or another group may now propose to draw on a map.

Mr. President, I might lay down as part of the legislative history at this point the expectation of the sponsors of the bill that the zone, when defined by the Secretary, shall include an area along the west rim of Marble Canyon and an area adjacent to the west bank of the Colorado River upstream from Navajo Bridge to Lees Ferry. Also, each of three portions of lands which are proposed for deletions from the existing Grand Canyon National Monument are expected to be included in the "zone of influence," notwithstanding their omission from the enlarged park.

These areas, which involve 5,380 acres at Slide Mountain, 23,700 acres at Tuckup Point, and 9,000 acres at Jensen Tank, lie back from the canyon rim and, for a long time, have been considered unnecessary to the proper management of the park. I can recall that, as far back as 1957, when I first introduced a park boundary bill on behalf of Senator Hayden and myself, most of this general region was marked for deletion from the monument.

Actually these plateau lands have been worked by ranchers for as long as anyone can remember and, as the oldest non-Indian people using these areas, I believe the cattlemen have equitable rights which should be met by returning the lands to the public domain.

Another important feature of the bill, which is related to the "zone of influence," is the authority granted by section 7 for the Secretary of Interior to enter into cooperative agreements between the U.S. Park Service and the U.S. Bureau of Land Management, the U.S. Forest Service, Indian tribes, State agencies, and other public groups relating to restrictions on new development in adjacent lands owned or administered by these other agencies and to the development and conduct of unified interpretative programs on such lands.

Also, in accordance with the urgings of conservation groups, the bill provides for the designation of a wilderness area in the Grand Canyon complex. Section 13 of the bill designates almost 513,000 acres as "wilderness" and over 86,000 acres as "potential wilderness additions" in the general area of the canyon and its surrounding environs.

Section 13 is identical to President Nixon's wilderness plan for the Grand Canyon complex which is contained in his message of September 21, 1972, except that his proposal is reduced by a small area of land which is located within lands recommended by this bill for transfer to the Havasupai Indians. Also, in recognition of the vigorous interest of the Hualapai Indian Tribe, the wilderness provision of my bill omits a sentence of the President's wilderness plan which would have repealed section 7, the reclamation provision in the act of February 26, 1919, establishing the original Grand Canyon National Park. Instead, the bill I am introducing today includes a provision, section 11, which states that nothing in the bill shall alter, repeal, or change in any way the existing status of either the earlier reclamation provision or a more recent one, section 605 of the Colorado River Basin Project Act, approved September 30, 1968. Section 605 provides that the Federal Power Commission shall not have authority to license construction and operation of a reclamation project on the Colorado River between Hoover Dam and Glen Canyon Dam without the subsequent approval of Congress. To repeat, my bill will not affect either section 7 of the 1919 law or section 605 of the 1968 law one way or the other.

It should be mentioned that in keeping with the President's wilderness message, the wilderness section of our bill will have no present effect on river trips through the Grand Canyon complex on the Colorado River. Limitations on the numbers of individuals taking such trips and on the use of motors are already in effect in order to protect the environment along the river, pending a major study of ecological changes of the river which boatmen have already begun and which Congress should finance to its conclusion on a top priority basis. These comprehensive regulations were announced only 3 months ago, on December 5, and I believe it is unnecessary to legislate on this matter while it is being resolved administratively.

Mr. President, this brings me to several important provisions of the bill which involve Indian peoples living within or adjacent to the Grand Canyon. First and foremost, the bill protects the existing legal rights of Indian tribes in and around the canyon.

The bill handles this by providing that no lands or interests in lands can be transferred or acquired from any Indian tribe against the will of its governing body. This safeguard is nailed down not only in the legislation itself but on the face of the map described in the legislation.

Section 5 of the bill is clearly headed, "Prohibition Against Taking of State or Indian Lands." This section prescribes that—

> No land or interest in land, which is held in trust for any Indian tribe or nation, may be transferred to the United States under this Act or for purposes of this Act except with the concurrence of such Indian tribe or nation.

Section 6, which provides for the Grand Canyon zone of influence, also includes the same express prohibition against the acquisition of Indian lands without the consent of the people affected.

The boundary map cited in the bill repeats this prohibition. Though the map proposes that the park boundaries be moved to the south bank of the Colorado River, adjacent to the Hualapai Indian Reservation, it specifically indicates that this change is "subject to concurrence of the Hualapai Nation."

Similarly, the map proposes that the park boundary be set at the east rim of the canyon adjacent to the Navajo Indian Reservation, but expressly states that this plan is "subject to concurrence of the Navajo Nation."

Other protections of Indian rights are contained in sections 3 and 8. Section 3, which is the operative provision enlarging the boundaries of the park, includes the phrase—

> subject to any valid existing rights under the Navajo Boundary Act of 1934.

Section 8(c), relating to Indian development projects, provides that no development shall be made in the south shoreline of the Colorado River—

except with the concurrence of the Hualapai Tribe.

And guarantees that the tribe—

shall have the exclusive right to develop the shoreline with the Reservation.

This is an appropriate time to describe section 8, which could be of considerable benefit to Indian peoples. It conveys new authority on the Secretary of the Interior to assist financially in the planning, development, and operation of Indian recreational and tourist projects near the peak which shall be run by and for the benefit of the respective Indian tribes. The section allows the Secretary to assist with technical construction advice and the training of Indian personnel as well as in the making of grants or loans.

It should be mentioned, Mr. President, that in keeping with the overriding emphasis of the bill on ecological protection, section 8 includes language calling for the written approval of the Secretary before any of these individual Indian development projects can get underway within 1 mile east of the east rim of Marble Canyon or 1 mile back from the south bank of the Colorado River.

Next, Mr. President, the bill includes a very significant proposal for restoring to the Havasupai Tribe of Indians some of their sacred and ancestral lands. This tribe of some 300 individuals includes the remaining descendants of a people who once lived on millions of acres in the Grand Canyon and the Coconino Plateau in northern Arizona. In fact, the eastern neighbors of the Havasupai, the Hopis, depict the Havasupais in their ancient tradition as the keepers of the Grand Canyon and its sacred places.

About the 1870's and 1880's, these people were driven off of the plateaus and eventually reduced to a tiny reservation isolated on the bottom of the Grand Canyon. Even then, the original reservation of 38,400 acres was soon afterwards reduced to 518 acres by an 1882 Executive order so that today there is only about one acre for each person to live and work on. Here the Supais are left with no economic land base and may pass into extinction absent the return of some of their essential plateau lands and sacred places.

Mr. President, I am impressed with the youth and vision of the new council members of the Havasupai Tribal Council. I believe these leaders have the energy and the will to guide the Havasupai back into a self-sustaining people with tribal control over their own lives.

The bill we are proposing would help this wonderful people to survive. They are the natives of the Grand Canyon and surely any bill relating to the ecology of the canyon should include protection for the human beings who live there.

The bill does not include all of the lands they are seeking, but it would restore to them roughly 170,000 acres joining the bottom reservation and all the waterfalls nearby to the southern plateau lands where the tribe has traditionally enjoyed free grazing permits from the U.S. Forest Service. The bill would also connect 14,700 acres of Tenderfoot Plateau lands on the east with 41,400 acres of Topocoba area lands on the west. The sites of the tribal power station at Long Mesa and the lone mule trail giving access into their canyon, located at Hualapai Hilltop, also would be added to the reservation completing the union of a single reservation of 169,000 acres.

This proposal covers most, but not all, of the restorations sought by the Havasupai people. I fully recognize that even this much may be difficult to obtain. Some environmentalists will want assurance that removal from the park of any of these lands will not cause disruption of the natural ranges of a band of bighorn sheep which now roam the rough countryside. Others will want guarantees that the abundant archeological resources in the canyon lands proposed for transfer to the Havasupai Tribe will continue to be protected properly. Others may be concerned that the bill could constitute a precedent for turning park-quality lands over to individual ownership.

These questions can and will be fully aired at hearings on the bill. I will only note for now that the boundaries which I have drawn follow closely to the lines recommended for omission from the new park in a late draft of the U.S. Park Service's own master plan for the Grand Canyon. Also, I would point out that the bill provides for a concession by the Havasupai people in order to acquire this additional land. The bill asks the Havasupais to give up their right, which now exists under law, of grazing within the boundaries of the park and of using parklands for agricultural purposes. Moreover, I will add that all of these reservation lands will be held in trust by the United States and will not in any way set a precedent for the transfer of parklands out of Federal into private ownership.

Finally, I should mention that the Secretary of Interior will possess authority under the bill to require detailed archeological surveys and salvage excavations before any proposed developments may occur that might affect cultural resources. His consent would also be required before any development of any kind could take place. To which I might add that the original inhabitants of the canyon lands are the Havasupais who can be expected to cooperate in every way possible to perpetuate their own cultural heritage.

To complete my summary of the bill's provisions, there is a section which preserves the existing grazing rights of cattlemen for a period of 10 years, or their own lifetimes, if longer, in any areas of the newly enlarged park where grazing is now legally occurring.

Finally, the bill includes a provision calling upon the Secretary of Interior to bring before the Federal Aviation Administration or the Environmental Protection Agency for action any concerns he has about the noise or disruption which may be caused by aircraft or helicopter activities in the air space above or below the Grand Canyon. The bill does not itself seek to legislate any new restrictions on these operations, but encourages the Secretary to utilize the existing laws in this field.

Mr. President, this bill marks my third effort at obtaining greater protection in law for the Grand Canyon. As I mentioned earlier, in January of 1957, I offered S. 693 of the 85th Congress for myself and Senator Carl Hayden. Then in 1969, I was joined by 26 other Senators in introducing S. 2360 of the 91st Congress.

Since then I and members of my staff have met and communicated almost continuously with numerous interested persons and groups trying our human best to arrive at a good bill that most everyone can support. For example, on July 30 of 1969, I held a working session on Grand Canyon Park legislation in my Senate office with Dan Poole of the Wildlife Management Institute, Charles Callison and Cynthia Wilson of the Audubon Society, Joe Penfolde of the National Resources Council, Ben Thompson of the National Recreation and Park Association, Barbara Meier of the Wilderness Society, Lloyd Tupling of the Sierra Club, and Tom Kimble of the National Wildlife Association.

Several more groups and persons have visited with me individually from time to time at my office and home to advise about their concepts for an improved park. Others, such as the Maricopa Audubon Society, Tucson Wildlife Unlimited, Inc., Arizona Cattle Growers Association, and Arizonans for Water Without Waste have consulted with me by writing of their suggestions. In addition, my staff lawyer has met with the Navajo tribal lawyer and other tribal lawyers on at least three separate occasions each.

Most recently, I have held two large open gatherings at my home in Phoenix to work out an acceptable and good bill. Among those attending were representatives of the Arizona Fish and Game Department, Arizona Wildlife Federation, Sierra Club, Grand Canyon Advisory Committee, U.S. Park Service, U.S. Forest Service, the river runners, Havasupai and Hualapai Indians, other Arizona congressional members, and others. A leading reporter of the local press was present at both meetings as well so that word of our discussions could get out accurately and completely to the general public, whom I wanted to know as much about the legislation as any of us in the meetings knew.

In short, I have tried my level best to develop a bill that will significantly improve the protection given by law to the Grand Canyon and at the same time be generally acceptable to most interested groups and persons. I realize that all will have to give a little in order to get an effective bill passed, but I firmly believe that if each of us will yield a little of our personal selfish wants, a successful bill will pass this session of Congress.

Mr. President, if it is the last thing that I do, I want to find proper protection for the whole wonderful thing known as the Grand Canyon—a protection that will guarantee it will not be molested and will remain forever as one of God's few practically untouched masterpieces.

Mr. President, I ask unanimous con-

sent that a copy of the Grand Canyon National Park Enlargement Act, which I am introducing, be inserted in the RECORD, together with a table of acreage computations.

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

S. 1296

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 "Grand Canyon National Park Enlargement Act."

DECLARATION OF POLICY

SEC. 2. It is the object of this Act to provide for the recognition by Congress that the entire Grand Canyon, from Lees Ferry to the Grand Wash Cliffs, including tributary side canyons and surrounding plateaus, is a natural feature of national and international significance. Congress therefore recognizes the need for, and in this Act provides for, the further protection and interpretation of the Grand Canyon in accordance with its true significance.

ENLARGEMENT OF GRAND CANYON NATIONAL PARK BOUNDARIES

SEC. 3. (a) In order to add to the Grand Canyon National Park certain prime portions of the canyon area possessing unique natural, scientific, and scenic values, the Grand Canyon National Park shall comprise, subject to any valid existing rights under the Navajo Boundary Act of 1934, all those lands, waters, and interests therein, constituting approximately 1,196,925 acres, located within the boundaries as depicted on the drawing entitled "Boundary Map, Grand Canyon National Park," numbered 113–20,000–G and dated February, 1973, a copy of which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

(b) For purposes of this Act, the Grand Canyon National Monument and the Marble Canyon National Monument are abolished, and any lands formerly included within such monuments and not included within the Grand Canyon National Park or the Havasupai Indian Reservation, as enlarged by Act, may be utilized by the Secretary for exchanges for lands to be incorporated into such park by or under this Act. Lands not used for such exchange purposes shall be administered by the Secretary in accordance with the laws applicable to the public lands of the United States and section 6. The combined total acreage of such park as enlarged by subsection (a) and this subsection shall not exceed 1,200,000 acres.

ACQUISITION OF LANDS BY DONATION OR EXCHANGE

SEC. 4. (a) Within the boundaries of the Grand Canyon National Park, as enlarged by this Act, the Secretary of the Interior (hereinafter referred to as the "Secretary") may acquire land and interest in land by donation, purchase with donated or appropriated funds, or exchange; but not by condemnation.

(b) Federal lands within the boundaries of such park are hereby transferred to the jurisdiction of the Secretary for the purposes of this Act.

PROHIBITION AGAINST TAKING OF STATE OR INDIAN LANDS

SEC. 5. Notwithstanding any other provision of this Act, (1) no land or interest in land owned by the State of Arizona or any political subdivision thereof may be acquired by the Secretary under this Act except with the concurrence of such owner, and (2) no land or interest in land, which is held in trust for any Indian tribe or nation, may be transferred to the United States under this Act or for purposes of this Act except with the concurrence of such Indian tribe.

GRAND CANYON ZONE OF INFLUENCE

SEC. 6. (a) (1) In order to more effectively protect the scenic and ecological integrity of the Grand Canyon, the Secretary shall establish a Grand Canyon Zone of Influence, which shall consist of such area, adjacent to or near the Grand Canyon National Park, as enlarged by this Act, as he shall, from time to time, define by publication in the Federal Register and within which he determines that a coordinated protective management of the environs is necessary or appropriate to protect against certain activities which may have an adverse influence on the Grand Canyon National Park, as enlarged by this Act, or any portion thereof.

(2) The authority granted to the Secretary by paragraph (1) shall not be applicable to lands held in trust for any Indian tribe or nation, except with the concurrence of such Indian tribe or nation.

(b) On any Federal lands within the Grand Canyon Zone of Influence, defined by the Secretary pursuant to subsection (a),

(A) disturbance of vegetation shall be allowed only for purposes of prescribed burning, scientific investigation, and spot development for interpretation, wildlife management, and grazing and grazing-related range-improvement;

(B) the development of new roads and any other new construction shall be confined to that which is necessary for proper management, as determined jointly by the Secretary and the head of the agency exercising jurisdiction over the lands following public hearings;

(C) hunting and fishing shall continue to be permitted in accordance with applicable laws;

(D) no permit, license, or lease for prospecting, development, or other utilization of mineral resources shall be granted, and Federal lands, waters, and interests therein are hereby withdrawn from location, entry, and patent under the United States mining laws for such period as such area is defined as being within the Grand Canyon Zone of Influence; and

(E) grazing of livestock shall continue to be permitted.

(c) (1) Where non-Federal lands within the Grand Canyon Zone of Influence are within the boundaries of a national forest, the Secretary of Agriculture is authorized to acquire the same or any interest therein by purchase, exchange, or donation, but not by condemnation. No land or interest in land owned by the State of Arizona or any political subdivision thereof or any land or interest in land held in trust for any Indian tribe or nation may be acquired except with the concurrence of such State, political subdivision, or Indian tribe or nation. Property acquired pursuant to this paragraph within a national forest shall be administered as a part thereof, subject to the provisions of this section.

(2) Where non-Federal lands within the Grand Canyon Zone of Influence are surrounded by public lands of the United States administered by the Secretary through the Bureau of Land Management, the Secretary may acquire any such non-Federal lands or interests therein for inclusion within the Grand Canyon Zone of Influence in the same manner and subject to the same conditions as set forth in sections 4 and 5. Property acquired pursuant to this paragraph shall be administered in accordance with the laws applicable to the public lands of the United States, subject to the provisions of this section.

(d) Within the Grand Canyon Zone of Influence the Secretary shall negotiate cooperative agreements with other public bodies in accordance with section 7 relative to the protection of the canyon and park environs and to the development and operation of unified interpretative programs and facilities.

COOPERATIVE AGREEMENTS FOR UNIFIED INTERPRETATION OF GRAND CANYON

SEC. 7. In the administration of the Grand Canyon National Park, as enlarged by this Act, the Secretary is authorized and directed to enter into cooperative agreements with other Federal, State, and local public departments and agencies and with interested Indian tribes providing for the protection and interpretation of the Grand Canyon in its entirety. Such agreements shall include, but not be limited to, authority for the Secretary to develop and operate interpretative facilities and programs on lands and waters outside of the boundaries of such park, with the concurrence of the owner or administrator thereof, to the end that there will be a unified interpretation of the entire Grand Canyon.

DEVELOPMENT OF INDIAN RECREATIONAL AND TOURIST PROGRAMS

SEC. 8. (a) (1) The Secretary is authorized to enter into agreements with any Indian tribe or nation having lands within or near the Grand Canyon National Park, as enlarged by this Act, relating to the planning, development, or use of such lands or related waters, for recreational, historical, or cultural purposes with a view to insuring that any such program will be operated by or for the benefit of the members of the respective Indian tribe or nation.

(2) In carrying out the purposes of this section, the Secretary is authorized to provide to the Indian tribe or nation concerned financial assistance through contracts, grants or loans (including assistance relating to planning, designing, and operation of facilities), advice, construction supervision, and training of personnel in regard to any program established under this section.

(b) Lands held in trust for the Navajo Nation which are located within one mile east of the East Rim of Marble Canyon should not be further developed for tourism, recreation or other purposes under this section or otherwise without the written approval of the Secretary, provided however that this subsection shall not be construed as a restriction upon any valid existing uses by the Navajo Nation.

(c) No development shall be made under this section or otherwise in the shoreline adjacent to or within the Hualapai Indian Reservation except with the concurrence of the Hualapai Tribe. The Hualapai Tribe shall have the exclusive right to develop the shoreline within the Reservation, except that no such development may occur within one mile back from the South Bank of the Colorado River without the written approval of the Secretary.

PRESERVATION OF EXISTING GRAZING RIGHTS

SEC. 9. Where any Federal lands within the Grand Canyon National Park, as enlarged by this Act, are legally occupied or utilized on the effective date of this Act for grazing purposes, pursuant to a Federal lease, permit, or license, the Secretary shall permit the persons holding such grazing privileges to continue in the exercise thereof for a period ending on December 31 following ten years from the effective date of this Act, or for the life of the existing permittee, whichever is longer.

AIRCRAFT REGULATION

SEC. 10. Whenever the Secretary has reason to believe that any aircraft or helicopter activity or operation may be occurring or about to occur within the Grand Canyon National Park, as enlarged by this Act, including the airspace below the rims of the canyon, which is likely to cause an injury to the health, welfare, or safety of visitors to the park or to cause a significant adverse effect on the natural quiet and experience of the park, the Secretary shall, in conjunction with

the Federal Aviation Agency, or the Environmental Protection Agency pursuant to the Noise Control Act of 1972, or both, submit to the responsible agency or agencies such complaints, information, or recommendations for rules and regulations or other actions as he believes appropriate to protect the public health, welfare, and safety or the natural environment within the park.

PRESERVATION OF EXISTING RECLAMATION PROVISIONS

SEC. 11. Nothing in this Act shall be construed to alter amend, repeal, modify, or be in conflict with the provisions of section 7 of the Act entitled "An Act to establish the Grand Canyon National Park in the State of Arizona," approved February 26, 1919 (40 Stat. 1175, 1178), and section 605 of the Colorado River Basin Project Act, approved September 30, 1968 (82 Stat. 885, 901).

HAVASUPAI INDIAN RESERVATION ENLARGED

SEC. 12. (a) To assist the Havasupai Indians in implementing their desire for a greater land base and an opportunity to control their own social and economic life, the Havasupai Indian Reservation shall, as of the date of enactment of this Act, consist of the existing reservations and the area within the boundaries designated for transfer to the reservation as depicted on the map referred to in section 3 of this Act, consisting of approximately 169,000 acres in the aggregate. The equitable title to the lands and interests in lands within that portion of the reservation so added by this Act is hereby conveyed to the Havasupai Tribe, and such lands and interests in lands, are hereby declared to be held by the United States in trust for the Havasupai Tribe of Indians in the same manner and to the same extent as other land held in trust for the tribe.

(b) In no event shall the water or water resources within the Havasupai Indian Reservation be transported outside of the Reservation as enlarged by this Act; nor shall the Secretary permit any use of the water resources of Havasu Creek which he determines will cause a significant adverse effect upon the scenic qualities of the Creek and the falls thereof, or the environmental quality of the area, subject to any existing water rights of the Havasupai Tribe.

(c) No development within such enlarged Havasupai Indian Reservation, including but not limited to, provision for any transportation system or road into the Grand Canyon and the construction of any pipeline system, shall be made without the written approval of the Secretary. Whenever the Secretary determines that any proposed development might affect any cultural resources within such enlarged Reservation, he may, in his discretion, require that detailed archeological surveys or salvage excavations, or both, shall be made before any such development may occur.

(d) The Executive order dated March 31, 1882, setting aside certain lands for the use and occupancy of the Yavai-Suppai Indians is hereby declared to be of no further force and effect, and section 3 of the Act of February 26, 1919 (44 Stat. 1177; 16 U.S.C. 223), is hereby repealed.

THE GRAND CANYON WILDERNESS

SEC. 13(a). In accordance with section 3(c) of the Wilderness Act (78 Stat. 890; 16 U.S.C. 1132(c)), certain lands in the Grand Canyon National Park and Grand Canyon and Marble Canyon National Monuments (other than any lands which are transferred by section 12 to the Havasupai Indian Reservation), which comprise about five hundred and twelve thousand eight hundred acres, designated "Wilderness," and which are depicted on the map entitled "Wilderness Plan, Grand Canyon Complex," numbered EPD–WSC–113–20008–B and dated August 1972, which shall be known as the Grand Canyon Wilderness, are hereby designated as wilderness, and shall be administered by the Secretary in accordance with the provisions of the Wilderness Act. The lands which comprise about eighty-six thousand one hundred and fifty-six acres, designated on such map as "Potential Wilderness Additions," are, effective upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon prohibited by the Wilderness Act have ceased, hereby designated wilderness: *Provided*, That within the wilderness area designated by this section, the Secretary (1) may pursue a program of prescribed burning, as he deems necessary, in order to preserve the area in its natural condition, (2) may undertake whatever activity he deems necessary in order to investigate, stabilize, and interpret, for the benefit of persons visiting that area, sites of archeological interest.

(b) A map and description of the boundaries of the areas designated in this section shall be on file and available for public inspection in the office of the National Park Service, Department of the Interior.

(c) As soon as practicable after this Act takes effect, a map of the wilderness area designated by this section and a description of its boundaries shall be filed with the Interior and Insular Affairs Committees of the United States Senate and House of Representatives, and such map and description shall have the same force and effect as if included in this section: *Provided, however*, That correction of clerical and typographical errors in such maps and descriptions may be made.

(d) The area designated by this section as wilderness shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness areas, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary of the Interior.

AUTHORIZATION OF APPROPRIATIONS

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

(b) Any funds available for the Marble Canyon National Monument, the Grand Canyon National Monument, or that portion of the Lake Mead Recreation Area included within the Grand Canyon National Park, as enlarged by this Act, shall remain available until expended for purposes of such park.

ACREAGE TABLE

EXISTING AREAS	
Grand Canyon National Park	673,575
Grand Canyon National Monument	198,280
Marble Canyon National Monument	26,080
Total park acreage	897,935
PROPOSED ADDITIONS	
Marble Canyon East [1]	25,600
Coconino Plateau	640
Lower Kansas Canyon	36,280
Colorado Riverbed [2]	2,700
Lower Grand Canyon	331,500
Total additions	396,720
PROPOSED DELETIONS	
Tenderfoot Plateau	14,700
Tuckup Point	23,700
Jensen Tank	9,000
Slide Mountain	5,380
Marble Canyon West	3,550
Topocoba	41,400
Total deletions	97,730

Proposed new park, 1,196,925 acres.

Havasupai Indian Reservation, total acreage, 169,000.

[1] Subject to concurrence of Navajo Nation.

[2] Subject to concurrence of Hualupai Nation.

By Mr. BIDEN:

S. 1297. A bill to amend the Disaster Relief Act of 1970 to provide for disaster assistance in the case of substantial economic loss resulting from other than natural causes. Referred to the Committee on Public Works.

Mr. BIDEN. Mr. President, I introduce for appropriate reference, a bill to amend the Disaster Relief Act of 1970 which would provide for disaster relief benefits in the case of disasters resulting from other than natural causes.

As the wording of the Disaster Relief Act is presently interpreted by the Office of Emergency Preparedness, it does not apply to accidents caused by man which may have as serious an impact on a community or area as any natural disaster.

The specific occurrence that demonstrated the need for this bill occured on Friday, February 2, 1973, when a freighter in the Chesapeake and Delaware Canal struck the only railroad bridge over the canal and cut the mail rail freight line to southern Delaware, the Eastern Shore of Maryland and the northern counties of Virginia.

The now unusable railroad bridge had been carrying an average of 315 cars per day. One of the most important products transported into the region by rail was feed grains for the Delmarva poultry industry which has annual sales exceeding $300,000,000 a year. Other important products are fertilizer to prepare the coming crop season; fresh foods for food processing plants; coal for power production; lumber; and commodities requiring specialized containers such as chemicals and syrups. Some steps have already been taken to utilize alternate means of transport but these are limited and often more expensive. It is projected that, under the worst possible conditions, unemployment due to the accident could reach 4,600 people in 90 days with an estimated weekly wage loss of $521,000.

The ultimate economic loss, and resultant human suffering are hard to predict yet. This disaster may have long-term consequences for business recovery and activity and future employment potentials.

It is my hope that situations such as this can be considered as a part of the review of the effectiveness of the 1970 Disaster Relief Act to be conducted this year.

Mr. President, I ask unanimous consent that the text of this bill; a memorandum to the General Assembly of Delaware entitled "Summary Status Report, Railroad Transportation Situation;" and an article from the Wilmington News of February 8 describing the problems created by this accident be printed at this point in the RECORD.

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

S. 1297

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 102(1) of the Disaster Relief Act of 1970 is amended by inserting after "or other catastrophe" the following: "(including any act or accident which results in the sever-

ance of one or more important means of transportation or communication to any geographic area, and which causes substantial economic injury to that area)".

STATE OF DELAWARE DIVISION OF EMERGENCY PLANNING AND OPERATIONS

Memorandum to: Members of the 127th General Assembly, First Session

Subject: Summary Status Report, Railroad Transportation Situation

Seventeen days into the start of a new administration, a freighter and a bridge threw Delaware into a crisis.

Governor Sherman W. Tribbitt, in one of his first acts as Chief Executive, declared a "State of Emergency" in Delaware. He proposed creation of the Delmarva Emergency Board, a tri-state, ad hoc committee to deal with the problems facing peninsula farmers, industry and businessmen as a result of the severing of the critical rail link over the Chesapeake and Delaware Canal.

The Governor called for a meeting in Washington of federal officials and top leaders of the three affected states.

Now, just one month later, a contract has been awarded for bridge repair and reconstruction has begun.

What happened in those crucial four weeks? How did Delaware approach the situation? What is the prognosis for the weeks ahead?

As you know, the crisis hit on the morning of Friday, February 2, when, in fog and rain, a westbound freighter owned by Calmar Lines of Baltimore, plowed into the railroad bridge spanning the C & D Canal.

A seaman from Seattle, Wash., who had been serving as lookout was killed in the collision.

Damage to the bridge severed the single stretch of track linking the peninsula to the mainland.

Seventy five percent of the rail freight service to the peninsula was terminated.

Much traffic on the canal itself was affected as well. Larger ships remain unable to take the shortcut from the Chesapeake Bay to the Delaware Bay until the repairs are completed on the Penn Central-owned bridge.

At Governor Tribbitt's direction, an initial assessment of the impact of the rail service cutoff was made by several cabinet members. They included Agriculture Secretary M. Martin Isaacs; Community Affair and Economic Development Secretary John D. Daniello; Highways and Transportation Secretary Clifton E. Morris; Labor Secretary J. Thomas Schranck; and Acting Secretary of Public Safety, Col. George J. Bundek.

The Secretaries presented Governor Tribbitt with their views on February 8, six days after the incident.

The Governor than appointed the five men to a special committee to recommend courses of action to relieve the economic hazards of the situation.

The Secretaries met on February 9 and 13 to evaluate information gathered from business, industry and private organizations such as the Delmarva Advisory Council and the Delaware State Chamber of Commerce.

The Governor was apprised of the results of those meetings, as well. Briefly summarized, these studies presented the following picture:

a. Before the accident, approximately 365 cars a day passed in and out of the peninsula via the bridge while another 138 entered or departed via the Cape Charles-Little Creek, Virginia Ferry. Of these, about 50 cars were thru traffic. That means the Delmarva peninsula lost 315 cars daily.

b. Major important commodities involved in this loss of rail transportation are feed grains and supplements, fresh food products for canneries, fertilizers, chemicals, coal, lumber, machinery, food components for General Foods and other significant items. The export production from peninsula industries is also impacted.

c. Potentially, we could anticipate approximately 4,600 unemployed within 90 days in the primary industries concerned, with an associated wage loss of $521,600 each week and a cumulative 90 day unemployment insurance cost of $993,600. This assessment does *not* include the peripheral adverse effects nor the long-term damage which unquestionably accompanies this curtailment of "hard-core" agricultural, business and industrial operations. It is emphasized, however, that this is a potential condition.

At the same time, contacts were made with the Director, Region III, Office of Emergency Preparedness (OEP), various other Federal agencies and the governments of Maryland and Virginia to make them aware of our circumstances. We also wanted to insure their assistance in a coordinated effort to expedite restoration of rail service and develop interim methods of transportation to avoid complete strangulation of our economy.

The result was the Washington meeting with the National Office of OEP on February 14, attended by Governor Tribbitt, selected members of his staff, Sens. William V. Roth, Jr., R–Del., and Joseph R. Biden, Jr., D–Del., Governor Marvin Mandel of Maryland, members of his staff and the Maryland Congressional delegation, and representatives of the Virginia State Government. Also in attendance were top level officials of the various Federal agencies who had responsibilities and authorities to help resolve our problem.

Because of the serious economic consequences of the rail cutoff and to afford unencumbered authority to act with the speed dictated by the situation, the Governor, on February 15, issued a proclamation of a "State of Emergency" for that portion of Delaware below the C&D Canal. Governor Mandel has done likewise for the Eastern Shore counties of Maryland.

As a result of the data by Governor Tribbitt and his group, Federal officials moved to expedite action to repair the railroad bridge as quickly as possible.

On Friday, February 16—two weeks after the collision—the Acting Director of OEP, Darrell M. Trent, advised Governor Tribbitt that the Corps of Engineers had been directed to assume responsibility for repair of the bridge and restore rail service at the earliest possible date.

Under the direction of Col. Carroll Strider, Philadelphia District Engineer, preliminary work on the bridge began on February 17 to remove damaged structure and further evaluate the extent of repair required.

On March 1, 1973, a contract was awarded to the Whiting-Turner Contracting Co. of Baltimore, Md., for repair of the bridge. The $1,325 million contract calls for emergency restoration of rail traffic over the bridge in 60 days, partial restoration of canal traffic in 105 days and complete repair within 225 days. The contract contained an immediate notice to proceed.

At the same time, he was working to insure the fastest possible repair of the bridge, Governor Tribbitt, in coordination with Governors Mandel of Maryland and Linwood Holton of Virginia appointed the Delmarva Emergency Board.

Chaired Highways and Transportation Secretary Morris, that board has the responsibility to:

a. Assure the Cape Charles-Little Creek rail ferry operation is expanded to peak capacity, increase truck transportation capabilities and explore ways to develop better use of Delmarva water port facilities.

b. Determine the relative economic impact of all agricultural, industrial, business, and utility enterprises, establish essential commodity volume requirements by time phase; assign movement priorities and mode of transportation; authorize embargo exceptions; issue shipping licenses to the claimant firms, acquire ICC clearances, and accomplish any other actions necessary to insure the best possible uses of available transportation resources, pending restoration of rail freight service via the C&D Canal.

The Delmarva Emergency Board is supported by four working committees composed of Federal officials and a tri-state membership from government and the private sector. Essentially, the committee do the detail work leading to decision or action by the Board—or the Governors—as required. The titles of the committees indicate their responsibilities:

a. Data Collection.

b. Economic Resources Priorities.

c. Transportation Capabilities and Control.

d. Fiscal and Legal.

The Emergency Board and its committees have been actively working to accomplish the objectives of their assignment. General sessions were held on February 19 and 28, also March 6, and will continue as often as required to meet the needs of the situation. Individual committees have been working independently to carry out their respective responsibilities and will continue to do so.

Efforts to increase movement over the rail ferry haven't been successful as desired. Mechanical problems with the equipment and weather have hampered operations. Efforts to secure additional equipment to date, have failed. Upgrading the ferry operation will continue to be a key goal.

The identification of essential commodities and their relative order of importance of the Delmarva economy is the other task of urgent priority at the moment. This has to be done to continue developing shipping priorities which will insure rail movement of those commodities which are critical to the needs of peninsula business and industry. A preliminary list has been submitted to the Penn Central Railroad for exceptions to the embargo and further expansion and refinement of these requirements is being pressed with all possible speed.

This summary has been prepared for your information in the hope that it will provide a general background to the rail transportation situation as it currently exists and the actions that are in progress to relieve this serious threat to the economy of our area. The Governor, has, and will continue to direct the efforts of the Emergency Board to achieve this objective.

INDUSTRIAL PROBLEMS MOUNT OVER DELMARVA RAIL CURB

(By Eleanor Shaw)

DOVER.—The closing of the only railroad bridge over the Chesapeake & Delaware Canal is having serious effects on Delmarva industry.

Gov. Sherman W. Tribbitt and Gov. Marvin Mandel of Maryland yesterday sent a joint telegram to President Nixon telling him that their states "face a disaster of unprecedented scope" with the severing of rail service and cutback in canal traffic.

They asked the President to intervene somehow to restore both services.

The bridge was seriously damaged Friday when a ship hit it. Latest estimates say repairs will take between 2–6 months.

That leaves the slow ferry barges which cross the lower Chesapeake Bay as the only rail link to the peninsula.

Several industries—the Du Pont Co. nylon plant in Seaford, Southern States Agricultural Cooperative and the Delmarva Power & Light Co.—all say they hope enough rail freight can be ferried to the peninsula to serve their needs.

If not, and it appears likely that the barge traffic will not be adequate, then those firms

will join other major companies now looking for other means of transportation.

A Penn Central spokesman yesterday admitted "The problem is that there is an absolute limit on the amount of freight" that can be carried by the barges.

The barge route begins in Norfolk, Va. where rail cars are loaded onto barges. The number of cars per barge can vary, as can the number of trips per day a barge can make.

The train cars are removed from the barges at Cape Charles, then moved up the peninsula.

There has been an embargo on new rail shipments to the Delmarva area. The railroad spokesman said it probably will continue until the backlog of shipments already waiting for delivery is cleared up.

"It might be necessary to proceed under an order basis," he said.

One of the most seriously affected companies is General Foods in Dover, which uses about 40 rail cars daily to deliver supplies and ship out goods. Charles Donelly, spokesman for the plant, yesterday, said, "This will have a very serious impact on our operations."

While alternative shipping means are being considered, Donelly said he doubts trucking can take up the slack. If the repairs are not made soon enough, he said, "I'm sure it would mean a cutback" both in production and employment.

Standard Brands Chemical Industries, Inc., also of Dover, "virtually switched overnight" to tank trucks for its chemical transportation. Since only about two cars per day were used at the plant, its spokesman said, the changeover was not difficult.

Delmarva Power & Light, which serves the entire peninsula, is not facing an immediate crisis, according J. E. Hobbs, manager of operations for its southern division. Only the Indian River Generating Plant near Millsboro uses the railroad, he said, and that installation has about a 2-3 month stockpile of coal.

Hobbs added, though, "that if it's six months, obviously we're in trouble down here." The power company hopes to get some deliveries of coal—"even if it's only a dribble"—through Norfolk.

Southern States regional director Bill Smith yesterday said, "It will drastically affect our fertilizer and feed operations." Raw materials for blending these products are on hand at the 40 or so retail outlets, he said, but spring will produce a heavy demand.

By Mr. HATHAWAY:

S. 1298. A bill to provide public service employment opportunities for unemployed and underemployed persons, to assist States and local communities in providing needed public services, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. HATHAWAY. Mr. President, I am introducing a bill to extend and amend the Emergency Employment Act of 1971. Although many of the most serious effects of the recession of 1970 have abated, there are still areas of grave weakness in the economy where unemployment remains at intolerably high levels. I refer especially to rural and center-city areas where recession strikes first, hardest, and lasts the longest.

The bill I am introducing is not a radical alteration of the present legislation but would make several improvements in its operation. As enacted by Congress almost 2 years ago, the Emergency Employment program had a 2-year life, and the President has made clear his intention to allow the program to lapse. My bill would keep the program in existence as long as the national unemployment rate exceeds 4.5 percent. Additionally, the funding would be directly related to the unemployment rate so that the program would automatically be expanded if the unemployment rate showed a sharp increase during any 12-month period.

The most viable alternative to welfare is jobs. And if, for some reason, the private sector is not producing enough jobs, then funds must be provided to put people to work. This bill would provide a continuing vehicle for providing those jobs and also assist hard pressed local communities meet the rising demands for services currently being placed upon them.

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

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

S. 1298

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 "Public Service Employment Act of 1973".

STATEMENT OF FINDINGS AND PURPOSES

SEC. 2. The Congress finds and declares that—

(1) continued intolerable levels of poverty in the Nation's cities and rural areas are in large measure the result of high levels of unemployment and underemployment in those areas;

(2) the Nation has failed to fulfill the commitment made twenty-five years ago in the Employment Act of 1946 to assure maximum levels of employment through public policy;

(3) the unmet need for adequate public services in urban and rural areas and the existence of unused and underused manpower resources in these same areas provide an opportunity for the Nation to solve both problems at the same time;

(4) high unemployment severely limits the work opportunities available to the general population, especially low-income persons, and migrants, persons of limited English-speaking ability, and others from socioeconomic backgrounds generally associated with substantial unemployment and underemployment;

(5) expanded work opportunities must keep pace with the increased number of persons in the labor force, including the many young persons who are entering the labor force, persons who have recently been separated from military service, and older persons who desire to remain in, enter, or reenter the labor force;

(6) with high unemployment, many low-income persons are unable to secure or retain employment, making it especially difficult to become self-supporting and thus increasing the number of welfare recipients;

(7) many of the persons who have become unemployed or underemployed as a result of technological changes or as a result of shifts in the pattern of Federal expenditures, as in the defense, aerospace, and construction industries, could usefully be employed in providing needed public services;

(8) it is appropriate to assist States and local communities to hire the unemployed to fill unmet needs for public services in such fields as environmental quality, health care and public health, housing and neighborhood improvements, recreation, education, public safety, maintenance of streets, parks, and other public facilities, rural development, transportation, beautification, conservation, crime and fire prevention and control, prison rehabilitation, and other fields of human betterment and public improvement.

It is therefore the purpose of this Act to provide such unemployed and underemployed persons with employment in jobs providing needed public services and appropriate training and related services.

DEFINITIONS

SEC. 3. (a) As used in this Act, the term—

(1) "Secretary" means the Secretary of Labor;

(2) "State" includes the several States and the District of Columbia, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands;

(3) "public service" includes, but is not limited to, work in such fields as environmental quality, health care, education, public safety, crime and fire prevention and control, prison rehabilitation, transportation, recreation, maintenance of parks, streets, and other public facilities, solid waste removal, pollution control, housing and neighborhood improvements, rural development, conservation, beautification, veterans outreach, and other fields of human betterment and community improvement;

(4) "health care" includes, but is not limited to, public health services and activities, preventive and clinical medical treatment, voluntary family planning services, nutrition services, and appropriate psychiatric, psychological, and prosthetic services;

(5) "veterans outreach" means the veterans outreach services program carried out under subchapter IV of chapter 3 of title 38, United States Code, with full utilization of veterans receiving educational assistance or vocational rehabilitation under chapter 31 or 34 of such title 38;

(6) "unemployed person" means—

(A) persons who are without jobs and who want and are available for work; and

(B) adults who or whose families receive food stamps or surplus commodities under the Agricultural Act of 1949 or the Food Stamp Act of 1964 or money payments under title I, IV, X, or XVI of the Social Security Act (1) who are determined by the Secretary of Labor, in consultation with the Secretary of Health, Education, and Welfare, to be available for work, and (2) who are either (i) persons without jobs, or (ii) persons working in jobs providing insufficient income to enable such persons and their families to be self-supporting without welfare assistance;

and determinations under clause (A) shall be made in accordance with the criteria used by the Bureau of Labor Statistics of the Department of Labor in defining persons as unemployed; and

(7) "underemployed persons" means—

(A) persons who are working part time but seeking full-time work;

(B) persons who are working full time but receiving wages below the poverty level determined in accordance with criteria as established by the Director of the Office of Management and Budget.

(b) As used in section 11(c) of this Act, the term "area" means—

(1) where the applicant is an eligible unit of government or an Indian tribe, that geographical area over which the applicant exercises general political jurisdiction, or

(2) where the applicant is a public or private nonprofit agency or institution serving any area within the jurisdiction of an eligible unit of government, that geographical area over which such unit of government exercises general political jurisdiction

AUTHORIZED APPROPRIATIONS

SEC. 4. (a) There are authorized to be appropriated for each fiscal year ending prior to July 1, 1976, such amounts as the Congress

may determine to be necessary for carrying out this Act.

(b) For the purpose of providing financial assistance for any fiscal year under this Act to enable eligible applicants to carry out public service employment programs, the Secretary is authorized, out of funds appropriated to carry out this Act, to obligate expenditures equal to the sum of the amounts determined in accordance with the following clauses:

(1) $500,000,000 when the Secretary determines that the rate of national unemployment (seasonally adjusted) equals or exceeds 4½ per centum for three consecutive months prior to any such determination, but no more than one determination may be made under this clause in any given twelve-month period; and

(2) $100,000,000 for each increment of one-half of 1 per centum by which the Secretary determines that the average rate of national unemployment (seasonally adjusted) for three consecutive months prior to any such determination exceeds the rate specified in clause (1), not to exceed an aggregate total under this clause of $250,000,000 in the first twelve-month period after enactment or $500,000,000 in any given twelve-month period thereafter.

(c) No further obligation of funds may be made under subsection (b) subsequent to a determination by the Secretary that the rate of national unemployment (seasonally adjusted) has receded below 4½ per centum for three consecutive months.

(d) Whenever the Secretary makes any determination required by subsection (b) or (c), he shall promptly notify the Congress and shall publish such determination in the Federal Register. At such time, the Secretary shall recommend to the Congress any further steps he deems appropriate.

FINANCIAL ASSISTANCE FOR PUBLIC SERVICE EMPLOYMENT PROGRAMS

SEC. 5. (a) The Secretary of Labor shall enter into arrangements with eligible applicants in accordance with the provisions of this Act for the purpose of providing financial assistance to public and private nonprofit agencies and institutions for the creation of jobs providing employment for unemployed or underemployed persons in carrying out needed public services.

(b) For the purpose of entering into arrangements with the Secretary under this Act, eligible applicants shall be—

(1) States, counties, cities, and other units or combinations of units of general local government which have established public service employment councils pursuant to plans approved by the Secretary under section 7 in order to carry out comprehensive public service employment programs; and

(2) other public and private nonprofit agencies and institutions (including community action agencies, model cities programs, community development corporations, Indian tribal organizations, and public service agencies and institutions of the Federal Government) when the Secretary determines that (A) the appropriate unit of government eligible under paragraph (1) of this subsection has agreed to such an arrangement, or (B) such unit has not submitted a plan under section 7 or an application for any fiscal year under section 8 which meets the purposes and provisions of this Act, or (C) an applicant described in this paragraph will carry out a public service employment program which more adequately meets the needs of a particular geographical area or community or population group in accordance with the purposes and provisions of this Act.

SPECIAL EMPLOYMENT AND ECONOMIC DEVELOPMENT ASSISTANCE

SEC. 6. (a) There is hereby established a special employment and economic development assistance program. The Secretary shall reserve 25 per centum of the appropriations under this Act for each fiscal year for the purpose of carrying out this section.

(b) The Secretary shall enter into arrangements with eligible applicants meeting the criteria set forth in subsection (d) in order to make financial assistance available, in accordance with the purposes and provisions of this Act, for the purpose of providing employment, for unemployed and underemployed persons residing in areas of substantial unemployment, in jobs providing needed public services, which shall be carried out, to the maximum practicable extent, within such areas.

(c) Recruitment of new section 6 public employment program enrollees shall emphasize young people, women, non-high-school graduates, older workers, and other groups experiencing abnormally high unemployment. Every program agent shall be required to submit an acceptable plan for recruiting from these groups before it is refunded for the fiscal year beginning July 1, 1974.

(d) For the purpose of this section—

(1) "area of substantial unemployment" means any geographical area of sufficient size and scope to sustain a public service employment program under this Act and which has a rate of unemployment equal to or in excess of 6 per centum for three consecutive months and such an area shall continue to be deemed an area of substantial unemployment until the rate of unemployment has been less than 6 per centum, on the average, for the succeeding twelve months; and

(2) "eligible applicant" means any unit or combination of units of general local government or any public or private nonprofit agency or institution or Indian tribal organization which serves an area of substantial unemployment.

(d) In determining the rate of unemployment for the purposes of section (c)(1), persons who were, at the time of their employment under this Act, being counted as unemployed in determining such rate of unemployment shall continue to be so counted if they continue in such employment.

(e) Whenever the Secretary makes any determination required by subsection (c)(1) of this section, he shall promptly notify the Congress and shall publish such determination in the Federal Register.

(f) The Secretary is authorized to use not to exceed 20 per centum of the amounts available for carrying out this section for any fiscal year to provide financial assistance for economic development, low-cost housing, public works, and economic opportunity programs designed to assist in the long-range improvement of the economy of areas of substantial unemployment. The Secretary may provide financial assistance under this subsection only in accordance with criteria which shall be prescribed by the Secretary of Labor with the concurrence, as appropriate, of the Secretary of Housing and Urban Development, the Secretary of Commerce, and the Director of the Office of Economic Opportunity.

(h) Only persons from areas of high unemployment within an area shall be employed under section 6. Persons from areas where unemployment is not above 6 per centum who are currently employed under section 6 shall be transferred to section 5 employment as rapidly as funds become available.

PUBLIC SERVICE EMPLOYMENT COUNCILS

SEC. 7. (a) Any State, county, city, or other unit or combination of units of general local government which desires to be an eligible applicant in order to enter into arrangements with the Secretary under any provision of this Act shall submit to the Secretary a plan for the establishment of a public service employment council which shall—

(1) provide that the chief executive officer or governing body of the unit or units of government establishing such council shall appoint the members of the council and shall designate one member to be chairman;

(2) provide that the council shall consist of an equal number of members representing each of the following groups—

(A) community organizations, including community action agencies, model cities programs, the public employment service, education and training institutions, veterans organizations, and business and labor;

(B) job and service providers, including health, education, environmental quality, child care, recreation, public safety, and social service agencies;

(C) organizations representing low-income persons and other significant segments of the population to be served in accordance with the purposes of this Act;

(3) provide that the chairman of the council shall, with the approval of the council, appoint a staff director who shall supervise professional, technical, and clerical staff serving the council;

(4) set forth procedures under which applications for financial assistance for any fiscal year will be submitted by the applicant which shall be responsible for planning and carrying out services for which financial assistance is provided under this Act, and under which appropriate arrangements will be made for the council's participation in the planning and development of such applications;

(5) set forth the council's plans for conducting, on a continuing basis, surveys and analyses of unemployment and underemployment and needs for public services in the geographical area served by the council, to be used in the development of applications for assistance under this Act;

(6) set forth arrangements assuring that community action agencies, model cities programs, and other appropriate community organizations, will be involved in the development of applications for financial assistance under this Act;

(7) set forth the council's plans for evaluating the effectiveness of programs for which financial assistance is provided under this Act and for periodically reporting full statistical data to the Secretary for such programs; and

(8) describe the geographical area to be served by the council.

(b) The Secretary shall approve plans submitted by units of government under subsection (a) which are consistent with the purposes and provisions of the title and meet the requirements of subsection (a). A plan submitted by a unit of government may be disapproved only if the Secretary, in accordance with regulations which he shall prescribe, has provided—

(1) written notice of intention to disapprove such plan, including a statement of the reasons therefor;

(2) a reasonable time to submit corrective amendments to such plan; and

(3) an opportunity for a public hearing upon which basis an appeal to the Secretary may be taken as of right.

(c) The Secretary shall make available not more than 1 per centum of the sums appropriated to carry out this Act for the purpose of paying such amounts as may be reasonably necessary to cover the staff and other administrative expenses of the councils established pursuant to subsection (a). The amount made available for the purposes of this subsection shall be allocated from the funds available to the Secretary under paragraph (2) of section 9(a).

APPLICATIONS

SEC. 8. (a) Financial assistance under this Act may be provided by the Secretary only pursuant to an application from an eligible applicant approved by the Secretary in accordance with the purposes and pro-

visions of this Act. Such application shall set forth a public service employment program designed to create jobs providing employment for unemployed and underemployed persons in carrying out needed public services.

(b) An application for financial assistance for a public service employment program under this title shall include provisions setting forth—

(1) assurances that the activities and services for which assistance is sought under this title will be administered by or under the supervision of the applicant, identifying any agency or agencies designated to carry out such activities or services under such supervision;

(2) a description of the geographic area to be served by such programs, and a plan for serving on an equitable basis the significant segments of the population to be served, including data indicating the total number, and the number in each such segment, of unemployed and underemployed persons and their income and employment status;

(3) a description of the methods to be used to recruit, select, and orient unemployed and underemployed persons, including specific eligibility criteria, and programs to prepare such persons for their job responsibilities, including a description of the special methods to be used to acquaint such persons of limited English-speaking ability with the availability of such programs;

(4) a description of unmet public service needs and a statement of priorities among such needs;

(5) a description of jobs to be filled, a listing of the major kinds of work to be performed and skills to be acquired, and the approximate duration for which participants would be assigned to such jobs;

(6) the wages or salaries to be paid participants and a comparison with the prevailing wages in the area for similar work;

(7) the education, training, and supportive services (including counseling and health care services) which complement and enhance the work performed.

(8) the planning for and training of supervisory personnel in working with participants;

(9) a description of career opportunities and job advancement potentialities for participants;

(10) an indication of the full participation and maximum cooperation among local public officials, area residents, and representatives of private organizations in the development of the program and a description of their respective roles in the conduct and administration of the program;

(11) assurances that public service employment opportunities will be provided on an equitable basis among significant segments of the population of unemployed and underemployed persons whom it is the purpose of this Act to assist;

(12) assurances that priority in filling public service jobs will be given to unemployed or underemployed persons who served in the active military, naval, or air service (as that term is defined in title 38, United States Code) on or after August 5, 1964, in accordance with criteria established by the Secretary (and who have received other than dishonorable discharges); and that the applicant shall (A) in conjunction with the veterans outreach program, make a special effort to acquaint such individuals with the program, and (B) coordinate efforts on behalf of such persons with those authorized by chapter 41 of title 38, United States Code (relating to job counseling and employment service for veterans), or carried out by other public or private organizations or agencies;

(13) that agencies and institutions to whom financial assistance is made available under this Act have undertaken analyses of job descriptions and reevaluations and, where shown necessary, revisions of qualification requirements at all levels of employment, including civil service requirements and practices relating thereto, in accordance with regulations prescribed by the Secretary, with a view toward removing artificial barriers and achieving an equitable distribution of jobs for those whom it is the purpose of this Act to assist;

(14) assurances that due consideration will be given to persons who have participated in manpower training programs for whom employment opportunities would not be otherwise immediately available;

(15) assurances that the applicant will maintain or provide appropriate linkages with manpower programs for the purpose of (A) providing those persons employed in public service jobs assisted under this Act who want to pursue work with the employer, in the same or a similar field of work, with opportunities to do so and to find careers with maximum upward mobility in that field, and (B) providing those persons so employed who do not wish to pursue such work with opportunities to seek, prepare for, and obtain other work;

(16) assurances that all persons employed under any such program, other than necessary technical, supervisory, and administrative personnel, will be selected from among unemployed and underemployed persons;

(17) assurances that special consideration will be given to employing welfare recipients who want and are available for work and that appropriate linkages will be established and maintained with welfare agencies and with other programs making special efforts to assist welfare recipients to become self-sufficient;

(18) assurances that special consideration will be given to employing persons who have become unemployed as a result of technological changes or as a result of shifts in the pattern of Federal expenditures, including unemployed defense, aerospace, and construction workers; and

(19) such other assurances, arrangements, and conditions, consistent with the purposes and provisions of this Act, as the Secretary deems necessary, in accordance with such regulations as he shall prescribe.

(c) Programs assisted under this Act shall, to the extent feasible, be designed with a view toward enabling individuals to move into public or private employment or training not assisted under this Act, and toward—

(1) developing new careers, or

(2) providing opportunities for career advancement, or

(3) providing opportunities for continued training, including on-the-job training.

(d) An application, or modification, or amendment thereof, for financial assistance under this title, may be approved only if the Secretary determines that—

(1) the application is consistent with the purposes and provisions of this Act;

(2) the application meets the requirements set forth in this section;

(3) an opportunity has been provided to the appropriate community action agency, model cities program, and organizations representing significant segments of the population to be served in the area to be served to submit comments with respect to the application to the applicant and to the Secretary;

(4) the approvable request for funds does not exceed 90 per centum of the cost of carrying out the program proposed in such application, unless the Secretary determines that special circumstances warrant the waivers of this requirement.

Non-Federal contributions may be in cash or in kind, fairly evaluated, including but not limited to plant, equipment, or services.

ALLOCATION OF FUNDS

SEC. 9. (a) The amounts appropriated under section 4 of this Act for any fiscal year shall be allocated by the Secretary in such a manner that of such amounts—

(1) not less than 80 per centum shall be apportioned among the States in an equitable manner, taking into consideration the proportion which the total number of unemployed and low-income persons in each such State bears to the total number of such persons, respectively, in the United States, but not less than $1,500,000 shall be apportioned to any State, except that not less than $1,500,000 shall be apportioned among the Virgin Islands, Guam, American Samoa, and the Trust Territory of the Pacific Islands; and

(2) the remainder shall be available as the Secretary deems appropriate to carry out the purposes of this Act.

(b) The amount apportioned to each State under clause (1) of subsection (a) shall be apportioned among areas within each such State in an equitable manner, taking into consideration the proportion which the total number of unemployed and low-income persons in each such area bears to the total number of such persons, respectively, in that State.

(c) As soon as practicable after funds are appropriated to carry out this Act for any fiscal year, the Secretary shall publish in the Federal Register the apportionments required by subsection (a)(1) and (b) of this section.

TRAINING AND RELATED SERVICES

SEC. 10. For the purpose of providing training and related services, and the acquisition or the rental or leasing of supplies, equipment, materials, and real property necessary to enable persons to be employed in public service employment programs assisted under this Act, the Secretary shall utilize, in addition to any funds otherwise available under federally supported manpower programs, not to exceed 15 per centum of the amounts appropriated under this Act for each fiscal year.

SPECIAL PROVISIONS

SEC. 11. (a) The Secretary shall not provide financial assistance for any program or activity under this Act unless he determines, in accordance with such regulations as he shall prescribe, that—

(1) the program (A) will result in an increase in employment opportunities over those which would otherwise be available, (B) will not result in the displacement of currently employed workers (including partial displacement such as a reduction in the hours of non-overtime work or wages or employment benefits), (C) will not impair existing contracts for services or result in the substitution of Federal for other funds in connection with work that would otherwise be performed, and (D) will not substitute public service jobs for other federally assisted jobs;

(2) persons employed in public service jobs assisted under this Act shall be paid wages which shall not be lower than whichever is the highest of (A) the minimum wage which would be applicable to the employee under the Fair Labor Standards Act of 1938, if section 6(a)(1) of such Act applied to the participant and if he were not exempt under section 13 thereof, (B) the State or local minimum wage for the most nearly comparable covered employment, or (C) the prevailing rates of pay for persons employed in similiar public occupations by the same employer;

(3) funds under this Act will not be used to pay persons employed in public service jobs under this Act at a rate in excess of $12,000 per year;

(4) all persons employed in public service jobs assisted under this Act will be assured of workmen's compensation, health insurance, unemployment insurance, and other benefits at the same levels and to the same extent as other employees of the employer and to the same working conditions and pro-

motional opportunities as such other employees enjoy;

(5) the provisions of section 2(a)(3) of Public Law 89-286 (relating to health and safety conditions) shall apply to such program or activity;

(6) the program will, to the maximum extent feasible, contribute to the occupational development or upward mobility of individual participants;

(7) not to exceed 10 per centum of the funds available for any program under this Act will be used for the acquisition or the rental or leasing of supplies, equipment, materials, or real property; and

(8) every participant shall be advised prior to entering upon employment, of his rights and benefits in connection with such employment.

(b) Consistent with the provisions of this Act, the Secretary shall make financial assistance under this Act available in such a manner that, to the extent practicable, public service employment opportunities will be available on an equitable basis among significant segments of the population of unemployed and underemployed persons whom it is the purpose of this Act to assist, giving consideration to the relative numbers of unemployed and underemployed person in each such segment.

(c) Where a labor organization represents employees who are engaged in similar work in the same area to that proposed to be performed under any program for which an application is being developed for submission under this Act, such organization shall be notified and afforded a reasonable period of time in which to make comments to the applicant and to the Secretary.

(d) The Secretary shall prescribe regulations to assure that programs under this Act have adequate internal administrative controls, accounting requirements, personnel standards, evaluation procedures, and such other policies, consistent with the purposes and provisions of this title, as may be necessary to promote the effective use of funds.

(e) The Secretary may make such grants, contracts, or agreements, establish such procedures, policies, rules, and regulations, and make such payments, in installments and in advance or by way of reimbursement, or otherwise allocate or expend funds made available under this Act, as he may deem necessary to carry out the provisions of this Act, including necessary adjustments in payments on account of overpayments or underpayments. The Secretary may also withhold funds otherwise payable under this Act in order to recover any amounts expended in the current or immediately prior fiscal year in violation of any provision of this Act or any term or condition of assistance under this Act.

(f) The Secretary shall not provide financial assistance for any program under this Act unless he determines, in accordance with regulations which he shall prescribe, that periodic reports will be submitted to him containing data designed to enable the Secretary and the Congress to measure the relative and, where programs can be compared appropriately, comparative effectiveness of the programs authorized under this Act and other federally supported manpower programs. Such data shall include information on—

(1) characteristics of participants including age, sex, race, health, education level, and previous wage and employment experience;

(2) duration in employment situations, including information on the duration of employment of program participants for at least a year following the termination of participation in federally assisted programs and comparable information on other employees or trainees of participating employers; and

(3) total dollar cost per participant, including breakdowns, between wages, training, and supportive services, all fringe benefits, and administrative costs.

The Secretary shall compile such information on a labor market, State, regional, and national basis and shall include such information in the report required by section 13 of this Act.

(g) The Secretary shall not provide financial assistance for any program under this Act unless the grant, contract, or agreement with respect thereto specifically provides that no person with responsibilities in the operation of such program will discriminate with respect to any program participant or any applicant for participation in such program because of race, creed, color, national origin, sex, political affiliation, or beliefs.

(h) The Secretary shall not provide financial assistance for any program under this Act which involves political activities; and neither the program, the funds provided therefor, nor personnel employed in the administration thereof, shall be, in any way or to any extent, engaged in the conduct of political activities for purposes which contravene chapter 15 of title 5, United States Code.

(i) The Secretary shall not provide financial assistance for any program under this Act unless he determines that participants in the program will not be employed on the construction, operation, or maintenance of so much of any facility as is used or to be used for sectarian instruction or as a place for religious worship.

(j) Programs assisted under this title shall, to the maximum extent feasible, contribute to the elimination of artificial barriers to employment and occupational advancement, including civil service requirements which restrict employment opportunities for the disadvantaged and for significant segments of the population whom it is the purpose of this Act to assist.

LEGAL AUTHORITY

SEC. 12. Rules, regulations, guidelines, and other published interpretations or orders issued by the Department of Labor, or any official thereof, in connection with or affecting the administration of any authority under this Act shall contain, immediately following each substantive provision of such rules, regulations, guidelines, interpretations, or orders, citations to the particular section or sections of statutory law or other legal authority upon which such provision is based.

SPECIAL REPORT

SEC. 13. The Secretary shall transmit to the Congress at least annually a detailed report setting forth the activities conducted under this Act, including information derived from evaluations required by this Act and information (1) on the extent to which participants in such activities subsequently secure and retain public or private employment or participate in training or employability development programs, and (2) the extent to which segments of the population of unemployed and underemployed persons are provided public service employment opportunities in accordance with the purposes of this Act.

TECHNICAL ASSISTANCE AND EVALUATION

SEC. 14. From funds available to the Secretary under paragraph (2) of section 9(a) for each fiscal year, the Secretary shall reserve such amount, not to exceed 1 per centum, as he deems necessary to provide for technical assistance to eligible applicants seeking to comply with the requirements of this Act and a continuing evaluation of programs assisted under this Act and their impact on related programs.

RESEARCH

SEC. 15. The Secretary shall carry out a program of research and pilot projects into alternative ways and means to reach full employment defined as job opportunities at adequate wages for all those able and willing to work, including analyses of structural and other barriers to achieving such full employment, including a comparative analysis of the employment and poverty experience of other countries. The Secretary shall transmit the results of research efforts under this section to the Congress and make them readily available to the general public. For the purposes of this section, not to exceed $50,000,000 shall be reserved from funds available to the Secretary under paragraph (2) of section 9(a) for each fiscal year ending prior to June 30, 1975.

LABOR MARKET INFORMATION

SEC. 16. (a) In addition to the monthly national unemployment statistics, the Secretary shall gather by survey and publish on a regular basis data on unemployment, underemployment, and job vacancies by State, labor market area, rural area, and city and poverty neighborhoods.

(b) For purposes of this section, underemployment shall include persons who have part-time work but desire full-time work, discouraged workers not in the labor force, and persons earning less than the Federal minimum wage. Separate data shall be collected and compiled showing the total number of persons earning wages at levels lower than that sufficient to provide an annual income at the level of the lower living standard budget for a family of four (adjusted for regional, metropolitan, urban, and rural differences), as determined annually by the Bureau of Labor Statistics of the Department of Labor.

(c) Vacancy data shall include information on (1) how many unfilled jobs are available in the economy, by industry and occupation, (2) what are the capability requirements of such jobs, (3) salaries, wages, and other benefits of such jobs, (4) where jobs are located, and (5) how many and what kind of jobs remain unfilled for sixty days and for ninety days. To develop such data, the Secretary is authorized to require that all job vacancies be reported to the Department of Labor.

(d) Not to exceed 1 per centum of the funds available to the Secretary under paragraph (2) of section 9(a) for each fiscal year shall be available for the purpose of carrying out this section.

ACCEPTANCE OF FUNDS

SEC. 17. The Secretary is authorized to accept and utilize in carrying out the purposes and provisions of this Act funds appropriated to carry out other provisions of Federal law if such funds are utilized for the purposes for which they are specifically authorized and appropriated.

EFFECTIVE DATE

SEC. 18. This Act shall be effective upon enactment and the determinations to be made under section 4(b) shall take into account the rate of unemployment for a period of three consecutive months even though all or part of such period may have occurred prior to the enactment of this Act.

By Mr. SYMINGTON:

S. 1299. A bill to amend title I of the Housing Act of 1949 to permit a city whose population falls to below fifty thousand to convert any outstanding urban renewal projects from a two-thirds to a three-fourths capital grant formula. Referred to the Committee on Banking, Housing and Urban Affairs.

URBAN RENEWAL GRANTS FOR CITIES WITH DECLINING POPULATIONS

Mr. SYMINGTON. Mr. President, I introduce today a bill to permit cities whose populations fell below 50,000 at the last census to convert outstanding urban renewal projects from a two-

thirds to a three-fourths captial grant formula. The forerunner of this legislation, S. 2221, which I introduced in the last session, was included in the Housing and Urban Development Act of 1972, approved by the Senate on March 2, 1972. Unfortunately, however, the bill died in House committee.

Under the present capital grant formula, cities with populations below 50,000 pay one-fourth of the cost of urban renewal projects while those above 50,000 pay one-third of the cost of such projects. There are, however, at least five such cities which continue to pay one-third of the cost despite the fact that the population has declined well below 50,000.

The adoption of this proposal would bring five cities—University City, Mo.; Atlantic City, N.J.; East Chicago, Ind.; Jackson, Mich.; and Wheeling W. Va.—onto an equal footing with the other cities in the country with less than 50,000 residents.

I am pleased to announce that the bill is cosponsored by Senators EAGLETON, BAYH, and HARTKE.

We do not know at this time what action Congress will take on community development legislation in this session or what impact it would have on such urban renewal programs. Until changes are made in current programs, however, the present formulas will apply to on-going urban renewal projects. It is our hope, therefore, that the Congress will move quickly to enact this legislation.

The effect of the committee modification on my bill in the last session was to limit application to those cities below 50,000 population which experienced a substantial decrease under the 1970 census. This latter clause was interpreted in the committee report of S. 3248, the Housing and Urban Development Act of 1972, to mean a reduction in population of at least 5 percent.

The bill I am introducing this year conforms to the language approved last year by the committee and the Senate, and I ask unanimous consent that the text 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. 1299

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That clause (1) of section 103(a)(2)(B) of the Housing Act of 1949 is amended to read as follows: "(i) a municipality having, at the time the contract or contracts involved are entered into, a population of fifty thousand or less according to the most recent decennial census, and a municipality, the population of which is in excess of fifty thousand at the time the contract or contracts are entered into, having a population at any time prior to the time the final grant payment is made pursuant to such contract or contracts which is substantially less than fifty thousand according to such census,".

SEC. 2. The amendment made by subsection (a) shall apply to contracts entered into under title I of the Housing Act of 1949 on or after the date of the enactment of this Act, and to any contract entered into under such title before such date if the final grant payment has not been made pursuant thereto before such date.

By Mr. EASTLAND (for himself, Mr. MCCLELLAN, Mr. HRUSKA, Mr. COOK, and Mr. GURNEY) (by request):

S. 1300. A bill to assure the imposition of appropriate penalties for persons convicted of offenses involving heroin or morphine, to provide emergency procedures to govern the pretrial and post-trial release of persons charged with offenses involving heroin or morphine, and for other purposes. Referred to the Committee on the Judiciary.

THE HEROIN TRAFFICKING ACT OF 1973

Mr. EASTLAND. Mr. President, as I have said on numerous occasions, one of the worst menaces facing this Nation is the serious problem of heroin trafficking. If it is not checked, it will continue to undermine the strength of this country, destroying our young people particularly, and, at the same time, feeding the criminal syndicates that thrive on profits from heroin trafficking. Because I believe that the time has come to take strong measures to meet this serious problem, I am today introducing, on behalf of myself, Senator MCCLELLAN, Senator HRUSKA, Senator COOK, and Senator GURNEY, by request, the Heroin Trafficking Act of 1973. The President, in his recent message to Congress, called for passage of this legislation as a major step toward curbing this horrible menace. The bill parallels a course that the distinguished senior Seantor from Florida and I had taken earlier this session in introducing similar legislation.

This bill provides for increased penalties for heroin and morphine offenses. It would make mandatory a sentence of 5 to 15 years for a first offense of trafficking in or illegally importing or exporting less than 4 ounces of a mixture or substance containing any amount of heroin or morphine. For the same offense regarding 4 or more ounces of such mixture or substance, it would make mandatory a sentence of from 10 years to life.

For a violator with a prior heroin or morphine conviction or one whose crime is committed while he is released pending trial, appeal, or sentencing on a Federal heroin or morphine charge, the mandatory sentence, regarding less than four ounces of a mixture or substance containing any amount of heroin or morphine, would be imprisonment for 10 years to life. For the same offense regarding four or more ounces of such mixture or substance, the mandatory sentence would be imprisonment for life with no parole.

This proposed legislation would make mandatory a sentence of imprisonment for 10 years to life for conviction of possessing four or more ounces of a mixture or substance containing any amount of heroin or morphine. If such possessor has a prior heroin or morphine conviction, there would be a mandatory sentence of imprisonment for life with no parole.

The bill provides that the imposition of execution of such mandatory sentences shall not be suspended, probation shall not be granted, and the Federal Youth Corrections Act shall not be applied.

Professional law enforcement officers are greatly concerned that many times, after dangerous and time-consuming investigations, successful arrests of heroin traffickers often fail to stop illicit heroin traffic. For example, in a great many cases, the individuals who play a part in the heroin traffic on a national and international level merely post bond and resume their activity within days and sometimes hours after their release.

The proposed bill also deals with conditions of release of persons pending trial on heroin or morphine charges and upon conviction, but pending sentence or appellate review. Unless the judicial officer finds that release will not pose a danger to the persons or property of others, pretrial release would be denied to those charged with a heroin or morphine trafficking offense. The bill would also prohibit post-trial release while awaiting sentence or during appellate processes of those who have been convicted of trafficking in or illegally importing or exporting heroin or morphine.

I would urge my colleagues to give this bill very careful consideration and to act on it with dispatch. We dare not vacillate in the face of spreading heroin addiction and its attendant problems.

Mr. President, I ask unanimous consent that a summary of the Heroin Trafficking Act of 1973 be printed in the RECORD at the conclusion of these remarks.

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

SUMMARY

Section 1 of the draft bill provides that it may be cited as the Heroin Trafficking Act of 1973.

TITLE I—INCREASED PENALTIES

Title I of the draft bill would amend the penalty provisions of the Controlled Substances Act and the Controlled Substances Import and Export Act with respect to the penalties for heroin and morphine offenses.

Section 101. Under existing law, section 401(b)(1)(A) of the Controlled Substances Act, a person convicted of manufacturing, distributing, or dispensing, or possessing with intent to manufacture, distribute, or dispense a controlled substance in schedule I or II of the Controlled Substances Act which is a narcotic drug is subject to a sentence of not more than 15 years imprisonment, a fine of not more than $25,000, or both. A second offender, or person who had been convicted of another felony under a federal law relating to narcotic drugs, marihuana, or depressant or stimulant substances, would be sentenced to not more than 30 years imprisonment, or not more than a $50,000 fine, or both. A special parole term of three years would be added to the sentence of a first offender, and a special parole term of six years would be added to the sentence of a second offender.

Section 101 of the draft bill would amend section 401(b)(1)(A) to increase the penalties for manufacturing, distributing, or dispensing, or possessing with intent to manufacture, distribute, or dispense a mixture or substance containing any amount of heroin or morphine which is a controlled substance under schedule I or II. If the person was convicted of the offense with respect to less than four ounces of such mixture or substance, he would be sentenced to a mandatory minimum sentence of not less than five years nor more than fifteen years imprisonment, and could also be fined not more than $50,000 (proposed section 401(b)(1)(A)(i)(aa)). If the person was convicted of the

offense with respect to four ounces or more of such mixture or substance, he would be sentenced to a mandatory minimum sentence of not less than ten years, or for life, and could be fined not more than $100,000 (proposed section 401(b)(1)(A)(ii)(aa)). If a person convicted of an offense involving less than four ounces had previously been convicted of a Federal, State or foreign felony relating to heroin or morphine controlled in schedule I or II, or committed the offense while released pending trial, appeal, or sentencing on a charge involving heroin or morphine controlled in schedule I or II, he would be subject to a minimum mandatory sentence of not less than ten years, or a life sentence, and could also be fined not more than $100,000 (proposed sections 401(b)(A)(i)(bb) and (cc)).

If a person convicted of an offense involving four ounces or more had previously been convicted of a Federal, State or foreign felony relating to heroin or morphine controlled in schedule I or II, or committed the offense while released pending trial, appeal, or sentencing, on a charge involving heroin or morphine controlled in schedule I or II, he would be subject to life imprisonment with no parole (proposed sections 401(b)(1)(A)(ii)(bb) and (cc)). No sentence under these provisions of section 401(b)(1)(A) could be suspended, probation could not be granted, and the Federal Youth Corrections Act (chapter 402 of title 18, United States Code) could not be applied. The existing penalty structure would continue to apply to offenses relating to narcotic drugs in schedule I and II other than morphine and heroin, and the existing recidivist penalty would apply to a person convicted of an offense relating to those narcotic drugs after being convicted of an offense relating to heroin or morphine (proposed section 401(b)(1)(A)(iii)).

Section 102. Section 102 would add a new section 404A to the Controlled Substances Act which would provide that conviction of illegally possessing four or more ounces of a mixture or substance containing any amount of heroin or morphine would require a sentence of imprisonment for a term of years of not less than 10 years, or for life, with parole, and, in addition, a possible fine of not more than $100,000.

If the person had previously been convicted of a Federal, State, or foreign felony relating to heroin or morphine controlled in schedule I or II, or if the offense was committed while the person was released pending trial, appeal, or sentencing on a charge involving heroin or morphine controlled in schedule I or II, there would be a sentence of life imprisonment with no parole. Execution of a sentence imposed under these provisions could not be suspended, probation could not be granted, and the Federal Youth Corrections Act could not be applied.

Section 103. Existing law, section 406 of the Controlled Substances Act, provides that an attempt or conspiracy to commit an offense under the Controlled Substances Act is punishable by imprisonment or fine or both not exceeding the maximum punishment prescribed for the offense which was the object of the attempt or conspiracy. Because mandatory minimum sentences or mandatory life sentences would result from the amendments which would be made by this draft bill, this section would be amended to provide that the punishment for an attempt or conspiracy would be the same as would have been imposed upon conviction of the offense itself.

Section 104(a). Violations of the provisions of the Controlled Substances Import and Export Act relating to illegal importation or exportation, or manufacture or distribution with intent or knowledge of future illegal importation, of narcotic drugs in schedule I or II carry a penalty of up to fifteen years imprisonment or a fine up to $25,000, or both, under existing law (section 1010(b)(1)). Section 104 would amend section 1010(b)(1) to increase the penalties for illegal importation or exportation, or manufacture or distribution for illegal importation, of heroin or morphine. If the person was convicted of the offense with respect to less than four ounces of a mixture or substance containing any amount of heroin or morphine controlled in schedule I or II, he would be sentenced to a mandatory minimum sentence of not less than five years nor more than fifteen years imprisonment, and could also be fined not more than $50,000 (proposed section 1010(b)(1)(A)). If the person was convicted of the offense with respect to four ounces or more of such a mixture or substance, he would be sentenced to a mandatory minimum sentence of ten years, or for life, and could be fined not more than $100,000 (proposed section 1010(b)(1)(B)). Sentence could not be suspended, probation could not be granted, and the Federal Youth Corrections Act could not be applied. Existing penalties would continue to apply to other import-export violations relating to narcotic drugs controlled in schedule I or II (proposed section 1010(b)(1)(C)).

Section 104(b). Under existing law (section 1012(a)), a person convicted of an importing or exporting offense, if he has previously been convicted of a Federal, state or foreign felony relating to heroin or morphine controlled in schedule I or II, is punishable by twice the term of imprisonment, or twice the fine, or both, otherwise authorized. Section 104(b) of the draft bill would amend section 1012(a) of the Controlled Substances Import and Export Act to provide stiffer penalties if the narcotic drug involved in an offense is heroin or morphine. If a person convicted of an offense relating to less than four ounces of a mixture or substance containing any amount of heroin or morphine controlled in schedule I or II had previously been convicted of a Federal, state, or foreign felony relating to heroin or morphine, or committed the offense while released pending trial, appeal, or sentencing on a Federal charge involving heroin or morphine controlled in schedule I or II, he would be subject to a minimum mandatory sentence of not less than ten years, or a life sentence, and could also be fined not more than $100,000 (proposed sections 1012(a)(2) and (4)). If the offense related to four ounces or more of such a mixture or substance, the person would be subject to life imprisonment with no parole if he had previously been convicted of a Federal, state, or foreign felony relating to heroin or morphine, or if he committed the offense while released pending trial, appeal, or sentencing on a Federal charge involving heroin or morphine controlled in schedule I or II (proposed sections 1012(a)(3) and (5). Sentence for these offenses could not be suspended, probation could not be granted, and the Federal Youth Corrections Act could not be applied. Existing penalties would continue to apply to other repeat offenses relating to illegal exportation or importation, or manufacture or distribution for illegal importation, of narcotic drugs in schedule I or II, including such an offense which followed an offense relating to illegal importation or exportation of heroin or morphine.

Section 104(c). Section 104(c) would make the same change in the conspiracy and attempt provision of the Controlled Substances Import and Export Act (section 1013 (as made by section 103 of the draft bill in the conspiracy and attempt provision of the Controlled Substances Act (section 406).

Section 105. The Table of Contents at the beginning of the Comprehensive Drug Abuse Prevention and Control Act would be amended to reflect the addition of section 404A to the Controlled Substances Act by section 102 of the draft bill.

TITLE II—CONDITIONS OF RELEASE

Title II of the proposed bill would add new sections to the Controlled Substances Act which would govern conditions of release of offenders charged with or convicted of violations of certain laws relating to heroin or morphine.

Proposed Section 412. A judicial officer would be required, in setting conditions of pretrial release, under the Bail Reform Act of 1966, of a person charged under the Controlled Substances Act or the Controlled Substances Import and Export Act with an offense relating to heroin or morphine which is a controlled substance in schedule I or II, to consider the safety of others and their property and the safety of the community in addition to the consideration of risk of flight.

Proposed Section 413(a). Release pending trial would be denied, absent compelling circumstances, to certain categories of persons charged with a violation of section 401(a)(1), 404A, or 1010(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970, relating to heroin or morphine in schedule I or II. At the time of arraignment, a special hearing would be held to determine whether the accused: (a) has previously been convicted under either Federal or State law of a heroin or morphine trafficking offense; (b) is presently free on parole, probation, or other conditional release in connection with a conviction or pending charge for any previous Federal felony or state or foreign offense which would be a felony under Federal law; (c) is a non-resident alien; (d) was arrested while in possession of documentation necessary for international travel incorrectly identifying him or belonging to some other person; or (e) has been convicted of having been a fugitive under Federal or State law or is a person for whom an arrest warrant has been outstanding for more than sixty days.

In the event that the accused is not found to be in one of the above categories, release shall nevertheless be denied unless he can establish that his release will not further endanger the community.

Proposed Section 413(b). Appeals from orders denying pretrial release may be taken by the individual Appeals from orders granting pretrial release may be taken by the United States.

Proposed Section 413(c). The case of a person held in custody pursuant to this section would be expedited.

Proposed Section 414. A defendant could not be released while awaiting sentence or after having filed an appeal or a petition for writ of certiorari if he has been convicted of violating section 401(a)(1), 404A or 1010(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 with respect to heroin or morphine which is a controlled substance in schedule I or II.

Proposed Section 415. The term "judicial officer" is defined as any person or court authorized to admit to bail or otherwise release a person before trial or sentencing, or pending appeal, in a Federal court and any judge of the Superior Court in the District of Columbia.

Mr. GURNEY. Mr. President, I am pleased to join as a cosponsor of this comprehensive proposal to deal with the problem of drug abuse. The bill sets forth a firm, two-pronged approach for dealing with those convicted of offenses involving heroin and morphine.

First, the bill calls for specific mandatory sentences ranging from 5 years to life, and monetary fines of up to $100,000. Under this bill, a prison sentence may not be suspended, nor probation granted.

For those arrested and found to be in possession of less than 4 ounces of drugs,

the penalty ranges from 5 to 15 years and up to $50,000 for the first conviction and 10 years to life with a fine of up to $100,000 for the second conviction.

For those in possession of 4 ounces or more, this first conviction brings 10 years to life and up to $100,000; and the second conviction means life imprisonment.

Similar penalties are outlined for exporting or importing heroin or morphine, and for conspiring to commit any of these crimes.

Second, the bill outlines procedures to be followed in determining pretrial and post-trial release. For example, release would be denied unless the judicial officer determines that such action will not pose a threat to other members or property of the community. For an individual on parole or probation, no release would be granted. Nor would release be granted to anyone awaiting sentence or appeal if he has been convicted of a crime involving heroin or morphine. The bill provides for appeal to such release orders.

On February 20, I introduced S. 918, which calls for a mandatory life sentence with no suspension or probation for those convicted of trafficking in narcotics. If the individual was between the ages of 16 and 19 at the time of conviction, he would be eligible for parole after serving 15 years.

My bill also provides similar penalties for those convicted of committing a violent crime after using a narcotic drug.

At the time I introduced that measure, I pointed out the fact that nearly half a million Americans, according to the Commission on Narcotic Drugs, are addicted to heroin. This includes a great many young people, most of whom are high school age. At least a million and a half young people between the ages of 12 and 18 have tried heroin.

I also outlined a number of laws and programs which we have instituted in the past few years to deal with drug abuse problems—at a whopping cost of nearly $785 million.

Most of these programs have made some progress—particularly in drug education and rehabilitation. We have still failed, however, to provide an effective deterrent to drug abuse and drug trafficking. And that is precisely why we still have a $10 billion drug business and a half a million heroin addicts in this country today.

In their annual crime report for 1971, the FBI pointed out that 63 percent of those arrested on narcotics violations were repeaters. Many drug pushers do not go to jail at all—and very few of those who do go serve a full sentence.

The answer is clear—we must institute, through strict criminal penalties, an effective and credible deterrent against drug abuse. And I believe this is an idea that is gathering a groundswell of support among the American people.

With the introduction in the New York State Legislature of the Rockefeller antidrug abuse proposal, which served as the basis for my own bill, it became apparent, through the numerous press statements and other news articles that this idea of mandatory sentencing has elicited strong support from many areas.

As a matter of fact, several bills calling for various minimum sentences have been introduced here in the Senate in the past few weeks.

While Congress does not make it a habit to establish such minimum sentences legislatively, I believe that the dangers of drug abuse, both existing and potential, warrant this action as President Nixon pointed out in his recent message to Congress:

> Sometimes it seems that as fast as we bail water out of the boat through law enforcement and rehabilitation, it runs right back in through the holes in our judicial system. I intend to plug those holes. Until then, all the money we spend, all the enforcement we provide, and all the rehabilitation services we offer are not going to solve the drug problem in America.

While I feel that this bill we are introducing today represents a sound approach toward dealing with drug abuse, I intend to persist in my efforts to enact the most stringent penalties possible, as I proposed in S. 918, in order to insure that new drug legislation will result in a credible deterrent. In this respect, I urge the committee to give ample and expeditious consideration to all pending legislation dealing with the establishment of mandatory penalties, blending together the best features of each, so that we can get on with this business of stopping drug abuse.

Mr. HRUSKA. Mr. President, I take pleasure in following the lead of the distinguished chairman of the Senate Judiciary Committee in sponsoring the Heroin Trafficking Act of 1973.

The problem of heroin and morphine abuse has become of great concern in our country. It is estimated that the retail sales of heroin reach as high as $3 billion per year. Our country now has the largest addict population in the world.

The Federal Government has taken strong and positive measures against drug abuse. Serious problems, however, remain unsolved. I commend President Nixon for proposing the Heroin Trafficking Act of 1973. This legislation will provide the Senate a workbase from which the issues of heroin and morphine trafficking can be discussed.

The proposed bill contains two titles. Title I provides for the use of minimum mandatory sentencing against those convicted of specific violations involving heroin and morphine.

The Controlled Substances Act of 1970 reformed the entire Federal penalty structure by providing judges with discretionary powers in sentencing. The administration bill, however, seeks to apply the minimum mandatory sentences to a very specific and select group of Federal crimes, those having to do with trafficking, importing, exporting, or possessing heroin or morphine.

This Senator's longstanding position has been to generally oppose the concept of minimum mandatory sentencing. It remains so today. The widely held view in rehabilitation and corrections is away from mandatory penalties, generally speaking.

Hence, it is with caution that we must proceed to consider legislation which calls upon the Congress to return to a system of mandatory sentencing. That caution is duly observed in the bill here introduced. There is sound justification for invoking mandatory penalties for violation of laws making illegal trafficking in heroin or morphine.

These are not crimes of passion. Rather, they are systematically and deliberately planned and executed. Such traffickers are experienced in evading law enforcement efforts. They are aware of the gravity of the offense and penalty. For those criminals we must provide adequate punishment. The trafficker's business is to peddle drugs and destroy lives. We must find further ways to stop this activity. Mandatory sentences may well be the way to provide effective deterrent force in such cases.

TITLE II

The second title of this bill provides for pre- and post-trial detention of those persons accused of specific heroin and morphine offenses. An additional feature provides that addicts could not be released pending sentencing or appeal of a conviction for any Federal offense.

The District of Columbia has operated with a detention provision since the passage of the Bail Reform Act of 1966. Additional features were enacted with passage of the D.C. Court Reform and Criminal Procedure Act. To my knowledge, these provisions have never been ruled unconstitutional. The experience in the District of Columbia may provide us with a good background to the problems of detention and its effectiveness.

There is a great body of evidence which shows that narcotic offenders are inclined to commit further crimes while on release either before trial or after conviction. The detention feature of the proposed bill is designed to protect the community from further crimes of this nature by such persons.

While it is not necessary to agree with all provisions and language in the bill, it is my judgment that its thrust is in the right direction and toward a most desirable result.

During hearings, which I do hope will ensue at an early date, the full scope and particulars can be thoroughly canvassed.

Mr. COOK. Mr. President, one of the greatest problems which confront America today is the epidemic of narcotic addiction which has gripped the Nation. Any effort which will successfully combat the predicament must include both treatment for addicts and the apprehension of illict drug traffickers.

On February 6 of this year I introduced the Narcotic Addict Treatment Act of 1973. This legislation will simultaneously secure the legal basis for present and new treatment programs while serving to eliminate diversions of narcotic drugs into street traffic. As I mentioned before, however, there are two facets to this complex problem. In addition to the creation of comprehensive and effective treatment programs for narcotic addicts, more attention must be given to the apprehension and swift prosecution of illicit drug traffickers.

Thus, today I join with Senators EASTLAND, MCCLELLAN, and GURNEY in introducing, by request, the Heroin Trafficking Act of 1973. This legislation pro-

vides harsh penalties for those derelicts in our society who traffic in the most sinister of all drugs, heroin and morphine. I hope that these greedy, despicable individuals who are engaged in drug trafficking will take note that each of our three branches of the Federal Government is determined as never before to deal with drug pushers in the harshest manner. The legislation which is being introduced today is the initiation of an exhaustive effort by Congress to determine the most effective manner in which to deal with drug pushers who have made slaves out of thousands of our young men and women.

By Mr. EAGLETON:

S. 1302. A bill to provide increased unemployment compensation benefits for Vietnam era veterans. Referred to the Committee on Finance.

INCREASED UNEMPLOYMENT COMPENSATION BENEFITS FOR VIETNAM ERA VETERANS

Mr. EAGLETON. Mr. President, today I am reintroducing my bill to provide supplemental benefits to unemployed Vietnam era veterans which would guarantee them a minimum weekly benefit of $75 for up to 52 weeks. While the nationwide problem of unemployed veterans has improved considerably since I introduced my bill last year, there are still stubborn pockets of unemployment that deserve our concern and he proposed cutbacks in veteran's programs threaten to aggravate the problem.

As long as we have hard-core areas of veterans unemployment, I do not think we can take comfort in the fact that the national average of veterans employment is improving. We must continue to provide the proper support and assistance until there is a job for every veteran. I was pleased to hear the new Secretary of Labor, Peter Brennan, at his confirmation hearing, affirm his earlier statement that his "greatest concern as Labor Secretary would be unemployment, particularly the problems of jobs for Vietnam war veterans."

In January the unemployment rate for Vietnam era veterans was 5.9 percent—an increase from December's 5.8-percent rate. At the same time the unemployment rate for nonveterans in the same age group declined from 6.3 to 6.0 percent. Unemployment among Vietnam era veterans 20 to 24 years of age was running at 8.6 percent; unemployment among disabled veterans is estimated to be at least 14 percent, and may be higher; minority veterans in all age groups have significantly higher unemployment rates; and the total number of unemployed veterans is 302,000.

Recent administration actions will probably aggravate these statistics. The proposed $1 billion cutback for 1974 in the public employment program will hit Vietnam veterans hard, since they constitute 40 percent of the enrollees, or about 61,000 veterans. A severe cut has also been proposed in vocational training under the Manpower Development Training Act, under which another 40,000 Vietnam era veterans are enrolled. Funds have also been omitted for the $50 million program to provide part-time jobs with nonprofit groups and local governments for Vietnam veterans enrolled in school.

After World War II and the Korean war, special legislation was enacted by Congress to provide special unemployment compensation to veterans who had difficulty in finding work. The "52–20 Club" after World War II provided relief of $20 a week for 52 weeks for the unemployed veteran. The bill I am introducing today could be labeled the "52–75 Club" for today's unemployed veteran.

While expanding the unemployment benefits for veterans is only a stopgap measure until we can find a job for every veteran, it is a necessary step. Something must be done for the veteran who returns from service and finds himself unemployable. The veteran's service and sacrifice for his country combined with his unique adjustment problems to civilian life are sufficient to justify this program.

The problem with unemployment compensation as it now stands is twofold: First, there is a great variation in the dollar amount of benefits to which the veteran is entitled, depending on his State, although they are uniformly inadequate; and second, the period of entitlement is too short, usually 26 weeks. The following table shows the minimum and maximum amount of benefits for each State, along with the number of weeks for which a veteran is eligible for such compensation:

U.S. DEPARTMENT OF LABOR, MANPOWER ADMINISTRATION, UNEMPLOYMENT INSURANCE SERVICE

SIGNIFICANT PROVISIONS OF STATE UNEMPLOYMENT INSURANCE LAWS, JAN. 7, 1973 (BENEFITS)

[Prepared for ready reference. Consult the State law and State employment security agency for authoritative information]

State	Weekly benefit amount for total unemployment		Weeks of benefits for total unemployment	
	Minimum	Maximum	Minimum	Maximum
Alabama	$15	$60	11+	26
Alaska	18–23	60–85	14	28
Arizona	10	60	12+	26
Arkansas	15	67	10	26
California	25	75	12–14+	26
Colorado	14	87	8+10	26
Connecticut	15–20	92–138	22+	26
Delaware	10	65	16+	26
District of Columbia	14–15	110	17+	34
Florida	10	64	10	26
Georgia	12	60	9	26
Hawaii	5	93	26	26
Idaho	17	68	10	26
Illinois	10	51–97	10–26	26
Indiana	20	45–65	12+–6+	26
Iowa	10	68	10	26
Kansas	16	66	10	26
Kentucky	12	68	15	26
Louisiana	10	70	12	28
Maine	12	63	11+–25	26
Maryland	10–13	78	26	26
Massachusetts	12–18	83–125	9+–30	30
Michigan	16–18	56–92	11	26
Minnesota	15	64	13	26
Mississippi	10	49	12	26
Missouri	12	63	13+	26
Montana	12	52	13	26
Nebraska	12	60	17	26
Nevada	16	77	11	26
New Hampshire	14	75	26	26
New Jersey	10	81	12+	26
New Mexico	13	64	18	30
New York	20	75	26	26
North Carolina	12	60	26	26
North Dakota	15	62	18	26
Ohio	10–16	57–87	20	26
Oklahoma	16	60	10+	26
Oregon	20	62	11+	26
Pennsylvania	12–17	91–99	30	30
Puerto Rico	7	50	20	20
Rhode Island	12–17	79–99	12	26
South Carolina	10	59	10	26
South Dakota	12	55	11–18	26
Tennessee	14	57	12	26
Texas	15	63	9	26
Utah	$10	$81	10–22	36
Vermont	15	77	26	26
Virginia	20	70	12	26
Washington	17	78	8–23+	30
West Virginia	12	75	26	26
Wisconsin	22	90	14+	34
Wyoming	10	63	11–24	26

Mr. EAGLETON. As the table shows, there is a wide difference in the amount of unemployment compensation between each State, and a veteran receives whatever the level is in his State. Furthermore, the period of eligibility for unemployment benefits rarely exceeds 26 weeks, although a veteran's readjustment problems are more difficult than other recipients of unemployment compensation. In 1972 there were about 540,000 claims from veterans for unemployment compensation and as of December of 1972, 5,190 veterans had run out of employment benefits without being able to find a job. At this point a veteran's alternative is to go on welfare.

I believe that this country owes a greater obligation to those who were uprooted from civilian life and thrust into the Vietnam war at risk to their life and limb than to provide them with minimal unemployment compensation and then to let them go on welfare. For this reason, I am introducing this bill to provide unemployment compensation of $75 per week for 52 weeks as a stopgap measure until we can improve the employment opportunities available to these veterans.

I ask unanimous consent that the bill be printed at this point in the RECORD, along with an editorial from the Kansas City Star of March 17, 1973, entitled "Jobs Are Key to Veterans' Return."

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

S. 1302

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 "Vietnam Veterans' Unemployment Assistance Act".

SEC. 2. SUPPLEMENTARY COMPENSATIONS FOR VIETNAM ERA VETERANS UNDER STATE AGREEMENTS.—(a) The Secretary is authorized on behalf of the United States to enter into an agreement with any State or State agency under which the State agency (1) will make, as agent of the United States, payments of supplementary unemployment compensation to any Vietnam era veteran in such State in accordance with the provisions of this Act, and (2) will otherwise cooperate with the Secretary, and with other State agencies, in making payments of supplementary unemployment compensation under this Act.

(b) Any such agreement shall provide that any determination by a State agency with respect to entitlement to supplementary unemployment compensation pursuant to an agreement under this section shall be made in accordance with the State unemployment compensation law and shall be subject to review in the same manner and to the same extent as determinations under the State unemployment compensation law.

(c) Each agreement shall provide the terms and conditions upon which it may be amended or terminated.

SEC. 3. UNEMPLOYMENT COMPENSATION IN

ABSENCE OF STATE AGREEMENTS.—(a) In the case of a Vietnam era veteran who is in a State which has no agreement under this Act with the Secretary, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for supplementary unemployment compensation under this Act, make payments of supplementary unemployment compensation to him in the same amounts and for the same periods as provided for in this Act. Any determination by the Secretary with respect to entitlement to supplementary unemployment compensation under this subsection shall be made in accordance with the State unemployment compensation law of the State where the veteran is.

(b) In the case of a Vietnam era veteran who is in the Virgin Islands, the Secretary, in accordance with regulations prescribed by him, shall, upon the filing by such veteran of a claim for supplementary unemployment compensation under this subsection, make payments of supplementary unemployment compensation to him in the same amounts and for the same period as provided for in this Act. Any determination by the Secretary with respect to entitlement to unemployment compensation under this subsection shall be made in accordance with the unemployment compensation law of the District of Columbia insofar as such law is applicable.

(c) Any Vietnam era veteran whose claim for unemployment compensation under subsection (a) or (b) of this section has been denied shall be entitled to a fair hearing in accordance with regulations prescribed by the Secretary. Any fiscal determination by the Secretary with respect to entitlement to supplementary unemployment compensation under this section shall be subject to review by the courts in the same manner and to the extent as is provided in section 405(g) of title 42, United States Code, with respect to final decisions of the Secretary of Health, Education, and Welfare under subchapter II of such title.

(d) The Secretary may utilize for the purposes of this section the personnel and facilities of the agency in the Virgin Islands cooperating with the United States Employment Service under chapter 4B of title 29, United States Code. For the purpose of payments made to any such agency under such chapter, the furnishing of such personnel and facilities shall be deemed to be a part of the administration of the public employment office of such agency.

SEC. 4. PAYMENTS TO STATES.—Each State shall be entitled to be paid by the United States an amount equal to payments of supplementary unemployment compensation made by such State under and in accordance with an agreement under this Act, and such payments shall be made subject to the same conditions and limitations which apply with respect to payments to States for compensation under section 8505 (b) through (h) of title 5, United States Code.

SEC. 5. INFORMATION.—(a) All Federal departments and agencies shall make available to State agencies which have agreements under this Act or to the Secretary, as the case may be, such information with respect to military service of any Vietnam era veteran as the Secretary may find practicable and necessary for the determination of such veteran's entitlement to supplementary unemployment compensation under this Act.

(b) Each State agency shall furnish to the Secretary such information as the Secretary may find necessary or appropriate in carrying out the provisions of this Act, and such information shall be deemed reports required by the Secretary for the purposes of paragraph (6) of subsection (a) of section 503 of title 42, United States Code.

SEC. 6. FALSE STATEMENTS AND MISREPRESENTATIONS.—(a) If a State agency, the Secretary of Labor, or a court of competent jurisdiction finds that an individual—

(1) knowingly has made, or caused to be made by another, a false statement or representation of a material fact, or knowingly has failed, or caused another to fail, to disclose a material fact; and

(2) as a result of that action has received an amount as supplementary unemployment compensation under this Act to which he was not entitled;

the individual shall repay the amount to the State agency or the Secretary. Instead of requiring repayment under this subsection, the State agency or the Secretary may recover the amount by deductions from supplementary unemployment compensation payable to the individual under this Act during a two-year period after the date of the finding. A finding by a State agency or the Secretary may be made only after an opportunity for a fair hearing, subject to such review as may be appropriate under section 2(b) of this Act.

(b) An amount repaid under subsection (a) of this section shall be—

(1) deposited in the fund from which payment was made, if the repayment was to a State agency; or

(2) returned to the Treasury of the United States and credited to the current applicable appropriation, fund, or account from which payment was made, if the repayment was to the Secretary.

SEC. 7. REGULATIONS.—The Secretary is hereby authorized to make such rules and regulations as may be necessary to carry out the provisions of this Act. The Secretary shall, insofar as practicable, consult with representatives of the State agencies before prescribing any rules or regulations which may affect the performance by such agencies of functions pursuant to agreements under this Act.

SEC. 8. NONDUPLICATION OF BENEFITS.—(a) Notwithstanding any other provision of this Act, no payment shall be made under any agreement under this Act, or, in the absence of such an agreement, by the Secretary under this Act to a Vietnam era veteran—

(1) for any week or any part of a week he is eligible (or would be eligible except for the provisions of this Act or except for any action taken by such veteran under this Act) to receive unemployment benefits at a rate equal to or in excess of $75 per week under any Federal or State unemployment compensation law; or

(2) for any period in which he receives a subsistence allowance under chapter 31, or an educational assistance allowance under chapter 35 of title 38, United States Code.

SEC. 9. EFFECTIVE PERIOD.—Supplementary unemployment compensation may be paid pursuant to this Act for weeks of unemployment commencing on or after the sixtieth day after the date of the enactment of this Act, but no such compensation may be paid to any Vietnam era veteran for any week beginning on a date which is more than (1) three years after the sixtieth day after such date of enactment, (2) three years after the date on which such veteran is discharged or released from active duty if such discharge or release occurs after such sixtieth day. No benefit may be paid under this Act after a date which is three years after the date on which the Vietnam era is terminated pursuant to section 101(29) of title 38, United States Code.

SEC. 10. DEFINITIONS.—As used in this Act—

(1) The term "Secretary" means the Secretary of Labor of the United States.

(2) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

(3) The term "State agency" means the agency of the State which administers its State unemployment compensation law.

(4) The term "State unemployment compensation law" means the unemployment compensation law of the State, approved by the Secretary under section 3304 of the Internal Revenue Code of 1954.

(5) The term "supplementary unemployment compensation" means cash benefits payable to Vietnam era veterans with respect to their unemployment in an amount necessary to increase the weekly benefit to which any such veteran is entitled under any State unemployment compensation law (including compensation payable pursuant to chapter 85 of title 5, United States Code, and extended compensation payable pursuant to the Federal-State Extended Unemployment Compensation Act of 1970) to a rate of $75 per week for a total of fifty-two weeks.

(6) The term "Vietnam era veteran" means a person who is a veteran within the meaning of section 101(2) of title 38, United States Code, who served on continuous active duty for ninety days or more during the Vietnam era as defined in section 101(29) of such title.

(7) The term "week" means a week as defined in the applicable State law.

JOBS ARE KEY TO VETERANS' RETURN

The Veterans Jobs Fair, which will be held Tuesday at the Exhibition Hall of Municipal Auditorium, will pull together young men in need of work and area employers and organizations that can accommodate them. It should be a happy and rewarding combination. Getting these veterans back into the mainstream of American life is a most important priority.

James A. Writerman, manager of the Missouri Division of Employment Security office here, analyzed the group of Vietnam-era veterans this way: "They represent one of the best supplies for the work force that an employer can use. They are the right age, well-motivated and anxious to get on with a career and a family."

Many of them entered the service from school, leaving them without job experience in the civilian labor market. It is difficult for them to compete with workers with more experience.

While the employment outlook has improved generally in the last several months, there still are some trouble spots. A recent study showed, for example, that the unemployment rate for veterans who are 20 to 24 years old was 9.7 per cent. The nonwhite rate for that age category was 18.5 per cent. The over-all civilian rate is about 5.5 per cent.

No employer can promise a job outright. But the response of employers demonstrates an awareness of concern for these ex-servicemen. Employment is at the heart of the resumption of their interrupted lives.

By Mr. PELL:

S. 1303. A bill to designate the first Saturday in November as the day for Federal elections. Referred to the Committee on Rules and Administration.

INTRODUCTION OF BILL AND AMENDMENT

AMENDMENT NO. 50

(Ordered to be printed, and referred to the Committee on Rules and Administration.)

Mr. PELL. Mr. President, I introduce for appropriate reference a bill to designate the first Saturday in November of every even-numbered year as the day for holding Federal elections.

I am also offering for appropriate reference an amendment to a bill S. 343, which was introduced on January 12, 1973, by my distinguished colleague from West Virginia, Senator ROBERT C. BYRD.

Mr. President, the percentage of votes cast during general election years has been diminishing. Registered voters are not going to the polls to cast their ballots for candidates of their choice.

Taking time off from the job, inconvenience, voter apathy, weather conditions, and many other excuses are offered to explain the poor showing at the polls.

Various election law reform bills have already been introduced this year for consideration by appropriate committees.

I believe that it would be of value to the Senate to include consideration of the month and day for holding elections. I believe we should consider whether a different day of the week than Tuesday, or an earlier month than November, or both, might motivate greater numbers of citizens to exercise the voting franchise.

For that reason the bill I introduce today would provide for Federal elections to be held on the first Saturday in November rather than the first Tuesday in November. This will allow us to consider the benefits of Saturday rather than Tuesday as election day.

In addition, I offer an amendment to Senator BYRD's bill, which proposes to advance the month for holding Federal elections from November to October. The passage of that bill would shorten the present overly long election campaigns and would have a salutary effect upon the results of voter participation. I believe it should be given favorable consideration.

The amendment I propose would follow Senator BYRD's proposal as to the month, but would make Election Day the first Saturday in October rather than the Tuesday next after the first Monday.

I believe this proposal would be a further inducement to all citizens to exercise the very important privilege of participating in the elective processes of the United States.

By Mr. STEVENS:

S. 1304. A bill to amend certain provisions of title XI of the Organized Crime Control Act of 1970 relating to explosives. Referred to the Committee on the Judiciary.

Mr. STEVENS. Mr. President, I am introducing a bill today to exempt commercially manufactured black powder as used in antique firearms or replicas thereof from title XI of the Organized Crime Control Act of 1970—Public Law 91-452. Muzzle loader shooters are among a minority of the sporting rifle enthusiasts in Alaska. They utilize historical rifles and pursue a hobby that entails great care and expense. This is a hobby with unique historical significance.

As America approaches its bicentennial birthday, Alaskans' thoughts are turning increasingly to the past for a preservation of the historical ideals upon which this Nation was founded. Yet few people actively practice any sport in a manner calculated to be as authentically historical as possible.

Among those who do are the muzzleloaders. These people shoot under conditions similar to those obtained during the Civil War and before. They gather several times yearly to shoot and discuss the fascinating details of their unique hobby. They manufacture and load their own ammunition. Some reconstruct their rifles themselves. They and their wives manufacture authentic uniforms of the times. They shoot at targets under carefully supervised safety conditions with all the authentic pageantry possible.

One of their safety precautions precludes the use of modern smokeless powders. Modern smokeless powders cannot be used in their antique firearms for, unlike black powder, modern smokeless powder produces dangerously high levels of pressure. This pressure may explode the weapons and could cause serious injury. Therefore, the only propellant they can use with any degree of safety is black powder.

Unfortunately, these legitimate sportsmen have been unable to obtain domestically manufactured black powder propellant. Only one domestic corporation produced black powder until 1971. This manufacturer then ceased production, until it recently resumed production of limited amounts to fulfill military contracts. However, this corporation has indicated that it does not intend to continue domestic production after March 1973. It will then attempt to sell its plant to the successful bidder on the new contracts.

Since June, 1971, the only source of commercial black powder available for sportsmen in the United States has been a plant in Scotland. All blackpowder available commercially for private individuals must be imported. Recently this producer in Scotland was also temporarily put out of production. No other plant is selling to muzzle loaders and other legitimate sportsmen because of the relatively small demand for black powder.

Mr. President, as you can see, importation and distribution of black powder has been severely restricted. Moreover, under title XI of the Organized Crime Control Act of 1970, no more than 5 pounds of black powder may be purchased at one time. This statute has severely curtailed legitimate muzzle loaders.

The theory behind the prohibition of title XI was that, because black powder was used in the making of pipebombs, it should be prohibited. However, several facts were not realized at the time the bill was passed.

The first fact is that black powder has seldom been used in bomb devices. From July 1, 1970 to December 31, 1971, only 3.87 percent of all American bombings involved black powder devices.

Second, homemade black powder is made from ingredients that can be purchased legally. Fertilizer, propane, and cotton are a few readily available potential bomb components. Even automobile gasoline can be used in bombs. These materials are not prohibited under title XI.

Commercial black powder, expensive and hard to obtain under any circumstances, even if legal, is not used by bombers. Homemade black powder, on the other hand, while suitable for bombs, is quite useless as a shooting propellant because quality and consistency are both vital for muzzle loaders.

Recently the Treasury Department conducted experiments with homemade bombs manufactured with common materials costing only $3. The principal ingredient was ammonium nitrate fertilizer, readily available in garden supply stores for approximately $4 per 80-pound bag or in bulk from farm suppliers for approximately $60 per ton. It is not licensed or restricted by any level of government.

To produce the same level of explosion as that which resulted from the bomb made by the Treasury Department with $3 worth of common materials would probably require at least $1,000 to $2,000 worth of commercial handloader's propellant or almost as much commercial black powder and an initiating charge of some type of high explosive. It would probably also require a skillful explosives expert.

Mr. President, if black powder must be regulated, a host of other materials should receive similar treatment. Playing cards, hand soap, sugar, and flour are but a few. Ammonium nitrate fertilizer, when mixed with fuel oil, creates a high explosive, presently used for 70 percent of the commercial blasting formerly done with dynamite. Yet fertilizer is not regulated. In fact, ammonium nitrate fertilizer may be mixed with other materials in such a way as to be detonated by nothing more than a firecracker, although the standard mix requires an explosive priming charge. The details of such a "high explosive" mixture are available in almost any public or college library.

Mr. President, my bill will exempt commercially manufactured black powder shooting propellants used in antique firearms or replicas. In addition, the bill defines the term "antique firearms or replicas." This definition refers to another section of law, 18 U.S.C. section 921(a)(16) and (4).

By this referral, it is my legislative intent as the author of this bill to define the term "antique firearm or replica" to include:

First, any firearm—including any firearm with a matchlock, flint lock, percussion cap, or similar type of ignition system—manufactured in or before 1898; and

Second, any replica of any firearm described in paragraph (1) if such replica—

Is not designed or redesigned for using rimfire or conventional centerfire fixed ammunition, or

Uses rimfire or conventional centerfire fixed ammunition which is no longer manufactured in the United States and which is not readily available in the ordinary channels of commercial trade;

The term "antique firearm or replica" also includes signaling and line throwing guns, cannons exempt from the destructive devices category of the Gun Control Act of 1968 (P.L. 90-618, 82 stat. 1213), and similar devices whose safe operation is contingent on the use of blackpowder shooting propellant for signalling, target competition, sporting purposes, musical and special theatrical presentations and effects, historical reinactments and demonstrations, and research.

Such an exemption is both fair and equitable. I urge the Senate to give the bill immediate consideration.

Mr. President, I request unanimous consent to insert several items in the CONGRESSIONAL RECORD at this point:

The bill itself.

Exhibit 1—an article entitled "Relief In Sight for Blackpowder Buffs."

Exhibit 2—a table containing a sta-

tistical summary of bombings and bomb device fillers used by bombers.

Exhibit 3—several letters I recently received from sportsmen urging enactment of this bill.

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

S. 1304

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That Section 1102(a) of Title XI of the Organized Crime Control Act of 1970 (PL–91–452 84 Stat. 922, 19 U.S.C. 845(a)) (relating to exemptions from certain provisions of Federal laws relating to explosives) is amended—

(a) by redesignating paragraph (6) as paragraph (7); and

(b) by striking out paragraph (5) and inserting in lieu thereof the following new paragraphs: "(5) commercially manufactured black powder as used in antique firearms or replicas thereof;

"(6) percussion caps, safety and pyrotechnic fuses, quick and slow matches, and friction primers; and"

SEC. 2. That Section 1102(a) of Title XI of the Organized Crime Control Act of 1970 (P.L. 91–452, 84 Stat. 922, 18 U.S.C. 841) is amended by adding at the end thereof a new subsection (o) as follows:

"(o) The term 'antique firearm or replica' means 'antique firearm' as defined in Section 921(a)(16) of Title 18 of the United States Code and also includes those items excluded from the term 'destructive device' in Subsection (4) of the same section."

RELIEF IN SIGHT FOR BLACKPOWDER BUFFS

(By American Rifleman staff)

Severely limited by production capacity and harassed by restrictive regulations, the supply of sporting blackpowder in the United States approached its lowest ebb in many years this fall. But relief is in sight.

The sole factory producing blackpowder for U.S. sportsmen, which was disabled by an explosion last spring, has been repaired and now is back in operation. This plant, owned by Imperial Chemical Industries, Ltd. is at Stevenston, Ayrshire, Scotland. It manufactures the well-known Curtis & Harvey brand of blackpowder marketed by several U.S. and Canadian firms.

Hodgdon Powder Co., one of the U.S. distributors, received its first shipment from the rebuilt factory Oct. 10. The company expects two more freightcar loads in the near future. These early shipments will be used to fill back orders. Some shortages will continue, Bob Hodgdon predicted, until blackpowder trickles back into supply lines and all distributors satisfy orders that have piled up during the past few months.

Du Pont, for 170 years a major producer of U.S. sporting blackpowder and more recently the only U.S. producer, discontinued sporting blackpowder after its plant in Moosic, Pa. was damaged by an explosion in June, 1971. The plant has been restored to fulfill Du Pont's military contracts, which will lapse in March, 1973. As the military will require blackpowder for at least another three years, the Army Munitions Command has advertised for bids to operate the Moosic plant. So far 12 firms have bid on the government contracts. The Du Pont corporation is expected to sell the plant to the successful bidder. Its asking price is $300,000. The new proprietors would be left to decide whether to resume sporting blackpowder production.

Although blackpowder shooting has boomed in recent years with the increased availability of modern-made blackpowder arms, consumption has not been spectacular by industry standards. According to one trade estimate, U.S. sportsmen discharge no more than 200,000 pounds annually, a volume insufficient to keep sporting blackpowder in production.

Besides the Du Pont mill, the only other known U.S. blackpowder factory is owned by the Austin Powder Co., of Cleveland, Ohio, a long-time manufacturer of blasting explosives. The Austin plant has been inoperational, however, since an explosion ripped through its pack house in 1968. Austin has been importing its sporting blackpowder from the ICI factory in Scotland and marketing it through Red Diamond Distributing Co. of Knoxville, Tenn. An Austin official interviewed for this article gave the impression that the sporting blackpowder business was a relatively insignificant aspect of the firm's overall operations. For this reason Austin's plant may never be restored.

Despite the lack of interest by domestic manufacturers, three foreign producers have been exploring the U.S. sporting blackpowder market. An Australian firm has corresponded with at least one American distributor about the feasibility of selling its mixture here. Likewise, a South American firm is considering blackpowder exportation to the U.S. Perhaps even more optimistic is the report that a European company is giving thought to the construction of a blackpowder plant here. This would perhaps alleviate some of the burdensome aspects of the 1970 Federal explosives law, which was passed to curb bombings by extremists.

Under the law, importation and distribution of the nation's sporting blackpowder supply has been severely restricted. It set up a rigid system of licensing for practically all persons handling blackpowder: manufacturers, importers, dealers and users. Some gun shop owners, who had kept small quantities of blackpowder in their inventories, gave it up rather than pay the annual $50 dealer's license fee. The legislation also entangled sportsmen in a web of often impractical transportation and storage requirements.

Following the trend set by the Federal government, many States passed new explosives laws which further hindered blackpowder sportsmen. The New York State version, one of the nation's more oppressive, required an explosives license costing $10 each year for the purchase of any quantity of blackpowder. The legislation also barred persons under 18 from obtaining an explosive license and under some circumstances made a fingerprint check mandatory. Like the Federal law, it too regulated the storage and transportation of blackpowder.

Representatives of at least 10 blackpowder shooting organizations in New York State have won some concessions after two years of appeals. Although still saddled with the $10 license fee, sportsmen no longer have to pay a $5 magazine license fee and pass an annual magazine safety inspection, providing they do not transport or store more than five pounds of blackpowder. These gun enthusiasts received the State's first official acknowledgement that blackpowder has a sporting purpose. The sportsmen also had the portion of the law changed which barred those under 18 from using blackpowder. In future, youngsters 14–18 with a current State hunting license will be permitted to fire blackpowder arms under proper supervision.

Blackpowder shooters in other States are moving together to eliminate or modify legislation that lumps blackpowder in with all explosives. These devotees of burning sulfur await the day when black is bountiful.

EXHIBIT 2

STATISTICAL SUMMARY OF BOMBINGS AND BOMB DEVICE FILLERS USED BY BOMBERS

Bombings in the U.S. for the period of: July 1, 1970 to June 30, 1971 [1]:

Total number of bomb devices (all types) 2,352; 100.0 percent.

Blackpowder devices (home-made and commercial) 96; 4.1 percent.

Devices employing materials other than blackpowder 2,256; 95.9 percent.

Bombings in the U.S. for the period of: July 1, 1971 to December 31, 1971 [2]:

Total number of bomb devices (all types) 1,489; 100.0 percent.

Blackpowder devices (home-made and commercial) 53; 3.55 percent.

Devices employing materials other than blackpowder 1,436; 96.45 percent.

Bombings in the U.S. for the period of: July 1, 1970 to December 31, 1971 [3]:

Total number of bomb devices (all types) 3,841; 100.0 percent.

Blackpowder devices (home-made and commercial) 149; 3.87 percent.

Devices employing materials other than blackpowder 3,692; 96.13 percent.

[1] Jane P. Morton and Gary S. Persinger, *Bombing in the United States:* July 1970–June 1971. International Assoc. of Chiefs of Police Research Division—Gaithersburg, Maryland. (Note: During this time period is when the ill-advised and infamous Title XI of the Organized Crime Control Act of 1970, PL 91–452, was being debated, enacted late in 1970 and put into effect on Feb. 12, 1971.)

[2] December 1971 Summary Report on Bombing in the United States: International Assoc. of Chiefs of Police Research Division—Gaithersburg, Maryland.

[3] Sources No. 1 and 2 were combined to give totals for an eighteen month period.

Use of Smokeless Powder as a Bomb Filler of the above same time periods:

July 1, 1970–June 30, 1971 [1] 54; 2.3 percent.

July 1, 1971–December 31, 1971 [2] 46; 3.1 percent.

July 1, 1970–December 31, 1971 [3] 100; 2.6 percent.

A "State by State" Summary of Blackpowder used for bomb device fillers by bombers in the United States during the period of: July 1, 1970 through December 31, 1971 [1]:

Alabama	1
Alaska	0
Arizona	15
Arkansas	0
California	46
Colorado	2
Connecticut	2
Delaware	0
Florida	5
Georgia	2
Hawaii	1
Idaho	1
Illinois	14
Indiana	3
Iowa	0
Kansas	5
Kentucky	0
Louisiana	2
Maine	0
Maryland	3
Massachusetts	1
Michigan	8
Minnesota	4
Mississippi	0
Missouri	7
Montana	0
Nebraska	0
Nevada	0
New Hampshire	0
New Jersey	5
New Mexico	0
New York	5
North Carolina	1
North Dakota	0
Ohio	6
Oklahoma	0
Oregon	1
Pennsylvania	4
Rhode Island	0
South Carolina	0
South Dakota	0

Footnotes at end of table.

Tennessee	0
Texas	2
Utah	0
Vermont	0
Virginia	2
Washington	1
West Virginia	0
Wisconsin	0
Wyoming	0
Washington, D.C.	0
Total	149

The total number of devices employing Blackpowder for a bomb filler is 149 for the Eighteen Month Period: July 1, 1970 through December 31, 1971.

[1] International Association of Chiefs of Police Research Division—Gaithersburg, Md.

EXHIBIT 3

MCKINLEY MOUNTAINMEN MUZZLE-LOADING RIFLE CLUB,
Eagle River, Alaska, October 27, 1972.

Re: H.R. 12406 to amend section 845 of Title 18 of U.S. Code

Hon. TED STEVENS,
Old Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENS: In response to your letter of September 12, 1972, the McKinley Mountainmen Muzzle Loading Rifle Club supports introduction of H.R. 12406 into the United States Senate.

Please understand that only the commercially manufactured black powder and percussion caps relate *directly* to our club.

The safety and pyrotechnic fuses, quick and slow matches and friction primers do relate to muzzle loading shooters, but of a slightly different type. I do know that the Fifth Battery Michigan Light Artillery, of which my husband was a member for many years, has virtually given up demonstrating their Civil War vintage cannon because of hardships worked on them by recent and past gun-related legislation.

We support Mr. Richard Corrigan's stand. We agree with the information set forth.

As 1976 approaches, our club hopes to be instrumental in Alaska's Bicentennial celebration. I, myself, have been involved in muzzle loading shooting only since 1965. Since that time I have watched a change in the laws toward guns, which also affected muzzle loaders. There are new restrictions, prices of black powder have skyrocketed.

There are many, many people like my husband and myself and our fellow club members who use our guns only for legal, lawful endeavors. These gun/explosives laws are working a hardship on us. Please help us.

Respectfully,

CHERYL WORKMAN,
Secretary-Treasurer.

WARD COVE, ALASKA,
February 12, 1973.

Senator TED STEVENS,
U.S. Senate, Committee on Appropriations,
Washington, D.C.

HONORABLE SENATOR STEVENS: I am a very dedicated blackpowder rifle and revolver fan and also a member of the National Muzzleloading Rifle Association. I would like to see you introduce a bill in the Senate that would remove some of the harsh restrictions that have been placed on blackpowder. It is my understanding that Representative Lee Hamilton of Indiana has introduced a blackpowder relief bill in Congress. But since we Alaskan's have no representative in Congress at this time I would like you to do whatever you possibly can to support the Blackpowder Hunter and shooter in Alaska.

Thank you.

Respectfully yours,

JACK R. MCELROY.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 1305. A bill to provide for the establishment of the post cemetery at Fort Richardson, Alaska, as a national cemetery. Referred to the Committee on Veterans' Affairs.

Mr. STEVENS. Mr. President, today I am introducing for myself and my colleague (Mr. GRAVEL) a bill to provide for the establishment of a post cemetery at Fort Richardson, Alaska, as a national cemetery.

This legislation was considered last Congress by the Senate Veterans' Affairs Committee during their study of the national burial policy for veterans. As other Senators will recall, that legislation passed both Houses but was the subject of a Presidential pocket veto. A comprehensive veterans burial policy bill was passed by the Senate earlier this month.

I have received assurances from the Veterans' Administration that the Fort Richardson Post Cemetery will be included in the study of post cemeteries required under that act. If favorable action is warranted after this study, the act empowers the Veterans' Administration to include the cemetery in the national system without the necessity of legislation.

However, as I indicated in the hearings before the Veterans' Affairs Committee, this bill is of extreme importance and interest to a large number of Alaska veterans. I am therefore introducing this bill now in order that the Fort Richardson Post Cemetery may be opened for veterans whether or not the National Cemeteries Act of 1973 becomes law.

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

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

S. 1305

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized and directed to establish a national cemetery at Fort Richardson, Alaska. The Secretary shall include within the boundaries of such national cemetery the grounds presently set aside for use as a post cemetery at Fort Richardson and shall include within the boundaries of such national cemetery such other lands under his jurisdiction at Fort Richardson as he deems necessary or appropriate.

SEC. 2. The Secretary of the Army shall provide for the care and maintenance of the national cemetery established under authority of this Act.

SEC. 3. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

By Mr. STEVENS (for himself, Mr. GRAVEL, and Mr. CANNON)

S. 1306. A bill to amend the Federal Property and Administrative Services Act of 1949, as amended, and for other purposes. Referred to the Committee on Government Operations.

Mr. STEVENS. Mr. President, today I am intorducing a bill to amend the Federal Property and Administrative Services Act of 1949 to rearrange the priority in section 203(j)(1) to permit the donation of excess surplus property to State and local agencies prior to the Agency for International Development.

The bill will permit the immediate utilization of much equipment which is now acquired by AID and stored for lengthy periods until acquired by a foreign government. It will also permit the donation of valuable equipment to local governments and State governments rather than to foreign governments which are often unable to use or maintain it. This will also permit a tax savings to the American people.

Considering the grave situations, both social and monetary, existing in many of our States, Americans should have the first option on the use of excess Federal properties. Our tax money purchased the equipment in the first place. It is both unfair and unwise to expect the American taxpayers to repurchase items identical to those already sitting in foreign warehouses awaiting overseas shipments.

The bill is quite similar to legislation which passed the Senate in the 90th Congress.

Currently, property greatly needed by local and State agencies is being acquired by AID to help develop foreign countries. According to AID's own figures, 43 percent of all property acquired in fiscal year 1971 was held in storage. Storing these materials serves no useful purpose and in fact only increases the cost of our foreign aid.

It is true that AID acquisitions are small in comparison to the total surplus equipment picture. However, AID, in pursuing its goal of helping foreign countries, acquires equipment most needed by State and local agencies.

For example, of the group and classes of Federal surplus classifications, there are five, which, according to HEW, contain equipment most sought after by State and local governments for use in education, health and safety. These classifications by order of a number of requests are:

First, motor vehicles (classification group 15):

Second, metal working machines (34);

Third, tractors (24);

Fourth, heavy equipment (38); and

Fifth, instrument and laboratory equipment (66).

Though these five groups contain the most desired equipment, requests are least likely to be filled due to the lack of supply. A significant factor in the inability of States and local governments to obtain these types of equipment is that during fiscal year 1971, 63 percent of all AID acquisitions were in these five categories. These are but five of the 90 categories from which AID has to choose.

Under section 608 of the Foreign Assistance Act of 1961, a ceiling of $45 million in total reserve acquisition was placed on AID. However, this ceiling applies to domestic procurements and not to overseas procurements. With the withdrawal of the United States from the armed conflict in Southeast Asia, there is a tremendous potential of surplus property which can be utilized by our State

and local governments—property that can be utilized domestically now, not in the future by a foreign nation. Thus, there exists the necessity for this legislation now, more than ever.

At the suggestion of several agencies this bill has been amended from the legislation I previously introduced.

At the suggestion of the grand jury for the Third Judicial District, State of Alaska, I have amended the legislation to permit the donation of surplus property for the operation of any correctional institution. As the grand jury stated in its report of July 25, 1969:

We found that the Adult Camp program could be greatly improved if federal surplus property were available for purchase by the Division of Corrections and the Grand Jury recommends that the state vigorously pursue action to obtain the necessary changes in the Federal Statutes so that the Alaska Penal System would be eligible for so-called State Surplus (i.e. Federal surplus equipment and supplies). The Alaskan Congressional Delegation should be encouraged in their efforts to have these changes made.

I have also made several minor technical changes in section 1 and added section 2 as a result of the departmental report of the Department of Health, Education, and Welfare. I believe this will clear up some latent ambiguity in the language of the legislation and also in the language of section 203(j).

I reques. unanimous consent that the bill be printed in the RECORD at this point.

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

S. 1306

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the first sentence of section 203(j)(1) of the Federal Property and Administrative Services Act of 1949 (63 Stat. 335; 40 USC 484(j)), as amended, is further amended to read as follows: "Under such regulations as he may prescribe, the Administrator is authorized, in his discretion, to donate without cost (except for costs of care and handling and, with respect to excess property described herein, costs of transportation and repair) for use in any State for purposes of education, public health, civil defense, or the operation of any correctional institution, or for research for any such purpose any equipment, materials, books, or other supplies (including those capitalized in a working capital or similar fund) under the control of any executive agency which—

"(A)(i) shall have been determined to be surplus property; or

"(ii) shall have been determined to be excess property and is being held under section 608 of Public Law 87–195 (75 Stat. 424), approved September 4, 1961, as amended, which property shall be offered to designated State agencies, as herein defined, before being offered to any other eligible donee; and

"(B) shall have been determined under paragraph (2), (3), or (4) of this subsection to be usable and necessary for such purpose."

SEC. 2 paragraphs (3) and (4) of section 203(j) of such Act are each amended by striking out "surplus" the first time it appears.

By Mr. STEVENS:

S. 1307. A bill to amend the Small Reclamation Projects Act of 1956, as amended. Referred to the Committee on Interior and Insular Affairs.

Mr. STEVENS. Mr. President, today I am introducing a bill to amend the Small Reclamation Projects Act of 1956 to include my State of Alaska with the 17 Western States now eligible for benefits under this legislation.

As you know, the 1965 act provides Federal assistance for the construction of irrigation projects and the rehabilitation and betterment of existing projects. Under the act, Federal assistance can be given to a State or a department, agency, or political subdivision thereof and to conservation districts and similar organizations which have the capacity to contract with the United States under the Federal reclamation laws. The ability of the Federal Government to participate in irrigation projects under the act is subject to certain funding and cost limitations.

The application of the 1965 act to Alaska would have an extremely beneficial impact on our farm industry. For several years immediately prior to 1972, certain portions of the State of Alaska were ravaged by an extended drought. Federal funding is available to rehabilitate stricken areas once damage has occurred. However, little money is available from the Federal Government to assist Alaskan farmers in building irrigation facilities which are capable of preventing losses before those loses take place. This type of preventative relief is provided under the Small Reclamation Project Act, which was promulgated in response to similar problems experienced by farmers in the lower 48 States. For this reason, I believe that Alaska should be included with the other 17 Western States which are already eligible for benefits under the Small Reclamation Projects Act.

I request unanimous consent that the bill be printed at this point in the RECORD.

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

S. 1307

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Small Reclamation Projects Act of 1956 (70 Stat. 1044), as amended, is hereby further amended as follows:

In the enabling clause, after the words "seventeen western reclamation States" add the words "and Alaska".

By Mr. BURDICK:

S. 1308. A bill to provide for the setting aside of convictions in certain cases and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, I introduce today, legislation to quiet old criminal records of rehabilitated Federal offenders, to prevent these records from being a bar to lawful employment, or to pursuing a trade or profession. This proposed legislation is a small step. It is, however, a vital step we must take because of its potential for facing the problem of recidivistic crime.

As chairman of the Subcommittee on National Penitentiaries, I have had some new opportunities to try to analyze not just prisons themselves, but the pressures and experiences of the men who come and go through the criminal justice system—to see what it is that makes so many of them come back. I am convinced that it has something to do with hope—not just the individual's hope for himself, but the hopes of all people.

When a judge pronounces sentence, it would seem that the law is saying to the offender: At some certain time, you will be returned to society with your debt paid. You should then be ready to assume an honest and upright life. But this is a fiction, because the debt to society continues to be collected.

I do not believe that the offender should forget what he has done, that is part of his rehabilitation. But there is a time when the records of his crime cease to have any value in determining his eligibility for employment, bonding, and licensing.

The criminal record that follows an individual for years and decades after his release prevents him from entering the economic community as a full partner. It destroys his hope that he may again earn the opportunity for advancement in his job or profession. The ex-offender's failures destroy society's hopes that offenders can be rehabilitated, and becomes a self-fulfilling prophecy.

The possibility that a past criminal record can be quieted would be an incentive to an offender to try harder to live lawfully. It would be the light at the end of the tunnel. It would also be a stern reminder of how much he stands to lose by returning to crime.

The idea of quieting old criminal records, of providing a final relief, is one this Nation has been growing toward in recent years. In its passage of the Youth Corrections Act in 1950, the Congress took a first step by recognizing the value of setting aside convictions of youthful offenders who have shown their readjustment and rehabilitation.

The 91st Congress established further precedents to the confidentiality of past criminal records. In the District of Columbia Court Reform and Criminal Procedures Act, Public Law 91–358, a method was set out for preventing the disclosure of juvenile records, except upon court order. In the Organized Crime Control Act, Public Law 91–452, individuals who cooperate by giving information cannot only have their past record quieted, but may be assisted by the Government to assume a whole new identity. In the Comprehensive Drug Abuse Prevention and Control Act, Public Law 91–513, it is possible to have the offense of possession of narcotics completely expunged.

The legislation being proposed today goes beyond the limited number of situations covered by these four enactments.

Many States have also recognized the problem of criminal records as a barrier to rehabilitation, and have passed varying statutes to meet the problems.

In a number of States, including North Dakota, it is possible for an offender, upon successful completion of probation, to have his case reopened and the court records appear that either there had been no conviction, or the charges were dismissed—see for example, North Da-

kota Century Code 12–53–18. This same type of provision exists in nine other States.

The statutes of four more States go further toward quieting the records of conviction as recognition of rehabilitation. The best known of these is the California statute. In addition, there are 13 States which provide a means of preventing misuse of records of arrest where there was no conviction.

There does not appear, however, to be any States that have brought these two facets together to achieve the degree of nullification required to affect employment, bonding, and licensing. From the study of case law and legal commentary regarding use of criminal records, it is obvious that an effective statute must go beyond anything we have at present. First, if recognition of rehabilitation is to have any significant impact, it must cover as many situations as possible—not just misdemeanors or juvenile crimes, but felonies in situations where the integrity of society would not be affected.

Second, the procedure for granting relief must be difficult so that the benefits will not be taken lightly by the applicant, the Government, or by society.

Third, the quieting of the record must be as complete as is possible, so as to accomplish what is to be accomplished. The means must be provided to stop the distribution of criminal records that have outlived their validity.

The answers to this last challenge can only be met by closing both routes of access to criminal records. First, the individual who has demonstrated his rehabilitation must be able to deny the existence of the record in situations involving employment, bonding, and licensing. Second, the agency which is considering the individual for employment, bonding, or licensing must have no other public or quasi-public means of obtaining the information.

The effect of a complete remedy would be great upon the rehabilitated offender, but, because of the safeguards built into the legislation, it would not have a negative effect upon those with whom he must deal. This quieting of certain criminal records would have no effect on law enforcement agencies, because no legitimate use in connection with investigating any crime or apprehending any alleged offender would be affected. The record of a previous offense would be available to the court to determine the proper sentence, if an individual did subsequently return to crime.

The likelihood that an offender who has earned this benefit will return to crime is not great. We need only look at the experience which the Department of Labor has had in underwriting money bond for former offenders who needed it to gain employment. The loss experience of offenders under this program has been less than commercial companies have with nonoffenders.

The effect of this on the ex-offender, however, would be great. He could be restored to hope—to the hope that he could seek and gain employment with promise for the future.

No one could be certain this is the only key to recidivism, but I do know that people without this hope are more likely to commit crimes, and that people who have hope are more likely to return to an honest and upright lifestyle. I believe that society deserves to hope that ways can be found to terminate the terrifying cycle of recidivism, and I believe that the setting aside of old criminal records has the potential of doing a part of the job. I ask unanimous consent that the bill and the sectional analysis be printed in the RECORD at this point.

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

S. 1308

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 231 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"SEC. 3657. Certificate setting aside conviction

"(a) Upon the unconditional discharge of an offender placed on probation under the provisions of section 3651 of this chapter, the court may, thereafter, in its discretion, set aside the conviction and issue to the offender a certificate to that effect.

"(b) In the case of an offender as to whom no sentence of imprisonment or period of probation is imposed, the court, after the expiration of two years from the date of conviction, in its discretion, may set aside the conviction and issue to the offender a certificate to that effect.

"(c) A conviction so set aside by this section or any other provision of title 18, United States Code, shall not constitute a conviction within the meaning of any law or regulation of the United States."

SEC. 2. Section 534 of title 28, United States Code, is amended to read as follows:

"§ 534. Acquisition, preservation, and exchange of identification records; appointment of officials

"(a) The Attorney General shall—

"(1) acquire, collect, classify, and preserve identification, criminal identification, crime, and other records; and

"(2) exchange these records with, and for the official use of the Federal Government, the States, cities, and penal and other institutions for law enforcement purposes.

"(b) The Attorney General may exchange such records with—

"(1) the officials of federally chartered or insured banking institutions to promote or maintain the security of those institutions; and

"(2) if authorized by State statute, officials of State and local governments for purposes of employment and licensing: *Provided, however,* that such exchange under this subsection shall be made only for the official use of any such official. The exchange of any identification or other record indicating that any person has been arrested on any criminal charge or charged with any criminal offense is hereby forbidden unless such record discloses that such person pleaded guilty or nolle contendere to or was convicted of such charge or offense in a court of justice.

"(c) The exchange of records authorized by this section is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

"(d) The Attorney General may appoint officials to perform the functions authorized by this section."

SECTION-BY-SECTION ANALYSIS

Section 1. This section creates a procedure by which a Federal court may set aside convictions of certain offenders who do not qualify, because of their age, for the provisions of the Youth Corrections Act, which already provides for the setting aside of convictions. In addition, it defines the effect of a certificate setting aside a conviction.

(a) The court is empowered, in its discretion, to set aside convictions of offenders who successfully complete a period of probation.

(b) The court is similarly empowered to set aside convictions of offenders for whom no sentence of imprisonment or probation is imposed, but only after two years has elapsed from the date of conviction.

(c) A conviction set aside under this section shall not be considered within any meaning of the law.

Section 2. This section amends and reenacts Section 534 of Title 28, United States Code, giving the Attorney General authority to collect, classify, and disseminate criminal records.

(a) The Attorney General is required to make available such records to Federal, State and local authorities for law enforcement purposes.

(b) A discretionary power is vested in the Attorney General to exchange criminal records with banking institutions, for purposes of security, and State and local governments, for purposes for employment and licensing. The use of such records is limited to official purposes and only to those arrest records which show the disposition of a charge.

(c) Access to such records may be cancelled if unauthorized dissemination occurs.

(d) Provision is made for the employment of officials to carry out the duties of this section.

By Mr. BURDICK (by request):

S. 1309. A bill to provide for the setting aside of convictions in certain cases and for other purposes. Referred to the Committee on the Judiciary.

Mr. BURDICK. Mr. President, legislation dealing with the setting aside of certain criminal convictions has been introduced today at the request of the Judicial Conference of the United States. I ask unanimous consent that the bill, together with the accompanying letter to the President of the Senate and the analysis be printed at this point in the RECORD.

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

S. 1309

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 231 of title 18, United States Code, is amended by adding the following new section at the end thereof:

"SEC. 3657. Certificate setting aside conviction.

"(a) Upon the unconditional discharge of an offender placed on probation under the provisions of section 3651 of this chapter, the court may, thereafter, in its discretion, set aside the conviction and issue to the offender a certificate to that effect.

"(b) In the case of an offender as to whom no sentence of imprisonment or period of probation is imposed, the court, after the expiration of two years from the date of conviction, in its discretion, may set aside the conviction and issue to the offender a certificate to that effect.

"(c) A conviction so set aside by this section or any other provision of title 18, United States Code, shall not constitute a conviction within the meaning of any law or regulation of the United States.

"This act shall take effect immediately."

WASHINGTON, D.C.,
January 8, 1973.

Hon. SPIRO T. AGNEW,
President, U.S. Senate,
Washington, D.C.

DEAR MR. PRESIDENT: On behalf of the Judicial Conference of the United States I am transmitting herewith a draft of a bill, approved by the Conference, to improve judicial machinery by providing for the setting aside of convictions in certain criminal cases not now eligible for such relief.

The bill would add a new Section 3657 to Chapter 231 of Title 18, United States Code. The bill is designed to allow for the setting aside of convictions in the cases of offenders who do not qualify because of their age at the time of conviction for the provisions of the Youth Corrections Act or the Young Adult Offender Act. Its purpose is to provide not only an incentive to the offender to refrain from further criminal conduct, but also to alleviate the severe, lifetime restrictions which are imposed on individuals convicted of a felony. As a practical matter, pardons and other executive clemency have been unavailable for many years to most individuals in need of such relief. Under the present system, and particularly with the increased availability of records and data on offenders, an individual often finds it impossible to be readmitted to society, even though no prison term is imposed.

The bill is designed to apply to certain special cases of offenders: Those who successfully complete a period of probation, as well as those whom the court decided did not require a period of supervision. This latter group would be eligible only after a period of time.

The relief is made discretionary on the part of the court.

The last paragraph of the bill attempts to define the effect which will be given to a certificate. As a result of our study of the effect of the certificate presently issued under the Youth Corrections Act, 18 U.S.C. 5021, it is clear that some definition of its effect is needed. The one chosen has the advantage of simplicity in language, but it leaves unresolved the question as to whether the setting aside actually expunges the record. One case under the Youth Corrections Act, *U.S.* v. *Tatum*, 310 F2d 854, does hold that this is the effect of the certificate. Other courts have not so held.

Representatives of the Judicial Conference or of this office will be glad to appear and testify at any hearing to be held by the Committee to which the bill may be referred, or provide any additional information that may be desired by Congress.

Respectfully submitted,

ROWLAND F. KIRKS,
Director.

ANALYSIS

The attached draft bill has been prepared for the use of the Probation Committee of the Judicial Conference. It is designed to allow for the setting aside of convictions in the cases of offenders who do not qualify because of their age at the time of conviction for the provisions of the Youth Corrections Act or the Young Adult Offender Act. Its purpose is to provide not only an incentive to the offender to refrain from further criminal conduct, but also to alleviate the severe, lifetime, restrictions which are imposed on individuals convicted of a felony. (See Vanderbilt Law Review, Collateral Consequences of a Criminal Conviction, October, 1970). As a practical matter, pardons and other executive clemency, have been unavailable for many years to most individuals in need of such treatment. Under the present system, and particularly with the increased availability of records and data on offenders, an individual often finds it impossible to be readmitted to society, even though no prison term is imposed. The Congress is presently considering several bills which relate to this matter: one, S. 2732 which would provide for expungement of the records, and also bills which would provide for non-disclosure of arrest records.

The bill is designed to apply to certain special classes of offenders: Those who successfully complete a period of probation, as well as those whom the court decided did not require a period of supervision. This latter group would be eligible only after a period of time.

The relief is made discretionary on the part of the court.

The last paragraph attempts to define the effect which will be given to a certificate. As a result of our study of the effect of the certificate presently issued under the Youth Corrections Act, 18 U.S.C. 5021, it is clear that some definition of its effect is needed. The one chosen has the advantage of simplicity in language, but it leaves unresolved the question as to whether the setting aside actually expunges the record. One case under the Youth Corrections Act, *U.S.* v. *Tatum*, 310 F2d 854, does hold that this is the effect of the certificate. Other courts have not so held, and California does not appear to recognize any effect of the Youth Corrections Act certificate.

By Mr. TUNNEY:

S. 1310. A bill to provide for control of meat prices through limitation on exportation of meat products from the United States. Referred to the Committee on Banking, Housing and Urban Affairs.

THE MEAT EXPORT CONTROL ACT OF 1973

Mr. TUNNEY. Mr. President, meat prices are soaring beyond the dinner tables of many Americans, and immediate action is needed to bring them within the average family budget.

That is why I am offering the Meat Export Control Act of 1973.

This bill sets a goal of less than 3.6 percent annual rate of increase in the average retail price of a broad range of meat products widely consumed by the American people.

It provides that whenever the annual rate of increase in this average price equals or exceeds 3.6 percent in any consecutive 3-month period beginning January 1, 1973, the President is required to ban the export of these meat products and of the intermediate meat products used in their manufacture or preparation.

It provides further that this export ban shall remain in force unless and until the annual rate of increase in this average price remains below 3.6 percent for a period of 6 consecutive months or the expiration of the act, whichever comes first. In the event that the Congress or the President imposes price controls on meat, the export ban cannot be lifted earlier than 6 months after removal of these controls.

Finally, this bill provides that in the event of a foreign emergency in which substantial human suffering can be relieved by the export of meat to the affected population, the President may waive for 30 days part of the export ban for the exclusive purpose of meeting such an emergency. If it appears necessary to continue this waiver beyond 30 days, the President must obtain permission from Congress no later than 5 days before the 30-day waiver terminates. If Congress is not in session at the time, the President may continue the waiver for more than 30 days, but no longer than 5 days after Congress reconvenes, unless Congress grants permission for a continuation. If Congress finds that no foreign emergency of the type described exists, it may, by majority vote of both Houses, invalidate the President's waiver at any time.

Mr. President, I am offering this bill, because it seems clear that unless we move quickly to protect American consumers, many of them will be completely priced out of the meat counters of our supermarkets.

The lead paragraph in a recent article in U.S. News & World Report began as follows:

> The high and rising cost of living has become the main topic of conversation—and a major cause of worry and criticism—for Americans everywhere. People explode in anger when they talk about the cost of food. Retail food prices are the number one concern, meats in particular. Nothing else is mentioned nearly as often.

We have had an almost incredible acceleration in meat prices over this last year. I fear that if we do not act now to protect domestic meat supplies, the situation will deteriorate even further. Consider the following facts.

In 1972, the United States exported more than 168 million pounds of red meat. While this represents only a small fraction of total domestic production, there are good reasons to expect that if we fail to act, greater and greater quantities of our already insufficient meat supplies will be sent abroad in the very near future.

Billions of American dollars are now held by foreign nationals and these dollars represent a tremendous claim on the output of the American economy. This fact, plus skyrocketing foreign demand for meat, plus the recent devaluations which have substantially cheapened the foreign price of American meat add up to a clear and present danger to American consumers.

My bill does not simply ban meat exports. It would prohibit meat exportation only when the market signals the existence of persistent shortages. It would automatically end the ban when the market indicates that domestic supplies are adequate to the needs of our people. If this seems like a policy of America first, well, so be it.

In addition to heading off the dangers of greater meat exports in the next 13 months, this bill will help ease meat prices right now. As economists have long known, the demand for food is relatively insensitive to changes in price. As a result, even small changes in supply have disproportionate effects on price. Prohibiting meat exports when prices are rising at an annual rate of 3.6 percent or more will bolster domestic supplies and help restore economic sanity to the meat counter.

Those who question this approach on the grounds that it might aggravate the

balance-of-payments deficit should consider the underlying causes of our payments problem. Certainly one major source of our large payments imbalance has been the unusually high rates of inflation since 1965. With many key labor negotiations coming up in the next few months and with the cost of food, especially meat, rising at unprecedented peacetime rates, we may be locked into another wage-price inflationary spiral that would set our international trading position back for many years to come. If this measure contributes to lower meat prices, and there is reason to believe it will, the ultimate impact will be beneficial for the balance of payments and for the overall position of the United States in the world economy.

Before closing I must point out what may turn out to be the most compelling reason for supporting this legislation. Anyone who follows the press knows there is a substantial possibility that the President may do a flipflop and order comprehensive controls on food prices. Rather than obviating the need for this bill, such controls would make a ban on meat exports absolutely essential. Imagine what would happen to American meat supplies if the domestic price were held down by controls while foreigners were free to outbid domestic purchasers. I hardly need detail the shortages and black market dealings that will result if we do not have meat export controls to complement meat price controls.

There is no evidence that the administration will use its authority under the Export Administration Act of 1969, as amended, to protect consumers from disastrous effects of rising meat prices. The ball is in our court. The American people are hopping mad and getting angrier all the time. Congress can ignore their cries for relief, but only at its own peril.

I believe that expeditious Senate action on this proposal is imperative. I had planned to introduce this bill as an amendment to the Economic Stabilization Act extension, but because of difficulties arising out of the unanimous consent agreement of March 15, this proved not to be possible.

If appropriate, I will attempt to offer it as a floor amendment in the near future. Meanwhile, I would urge that early hearings be held in committee.

By Mr. GRIFFIN (for himself, Mr. ALLEN, Mr. SPARKMAN, Mr. COTTON, and Mr. COOK):

S. 1311. A bill to amend the Communications Act of 1934 to provide that renewal licenses for the operation of a broadcasting station may be issued for a term of 5 years and to establish certain standards for the consideration of applications for renewal of broadcasting licenses. Referred to the Committee on Commerce.

RENEWAL OF BROADCAST LICENSES

Mr. GRIFFIN. Mr. President, today for myself and Senators ALLEN, SPARKMAN, COOK and COTTON, I am introducing a bill to improve and expedite consideration by the Federal Communications Commission of broadcast license renewal applications. This is identical to legislation that I introduced in the 92d Congress.

First, the legislation would authorize the FCC to grant renewal licenses to TV and radio broadcasters for a period of up to 5 years. A first-time license, however, could be issued for only a 3-year period.

Second, the bill provides that once broadcaster seeking a renewal license can demonstrate that he has served the needs of his community, a competing applicant or other opposing party would then have the burden of proving that it would not be in the public interest for the FCC to approve the licensee's renewal application.

Third, the bill would direct the FCC to expedite its consideration of renewal licenses.

Unfortunately, as a result of FCC and Federal Court decisions in recent years there is too much confusion and uncertainty associated with licensing procedures. The confusion started in 1969 when the FCC refused to renew a license for a Boston station because the station was owned by a local newspaper, and not because of poor service to the community.

Subsequent controversy about the ruling led the FCC to issue guidelines which provided that if a renewal applicant could show that his program service had been "substantially attuned to the needs and interests of its area," he would be preferred over any competing applicant and his license would be renewed.

But in 1971, these guidelines were nullified by a Federal appeals court which held that licenses should not be given a preference over challengers unless it could be shown that the licensee's past performance measured up to some vaguely defined standard of "superior" service.

The effect of these decisions on the workload of the Commission and the broadcasters is clear. Since 1969 the annual number of petitions to deny a renewal license increased from 2 to 68 in 1972. At the beginning of 1972, less than 40 stations were operating on a deferred basis beyond the expiration date of their license because the FCC had not yet acted on their renewal aplications. In February of this year the number of stations operating on deferred status had increased to 141.

Now, it frequently takes as long as 2 years from the date of filing before the FCC acts on a license renewal application. Considering the fact that broadcasters must renew their licenses every 3 years, a heavy drain is placed on the resources of both the licensee and the FCC. The public interest would be better served if more of these resources could be directed into analyzing and meeting community needs.

The legislation I am introducing today would provide the FCC and the courts with standards for license renewals that are more realistic and more in keeping with the public interest. In the first place the licensee's past performance would be the primary consideration in a renewal proceeding. If the licensee can show that he has done a good job, his license should be renewed unless a challenger can prove that it would not be in the public interest to grant the renewal application.

Second, by providing for a 5-year renewal term, stations will be able to invest more of their time and money into serving local community needs. And the longer time frame will give the FCC a better basis for judging the licensee's performance at renewal time.

In keeping with the emphasis on performance, the bill would continue to limit to 3 years the term of a license issued for the first time. A newcomer without broadcasting experience in the community should be monitored more closely to see if he is living up to his promises.

Finally, the bill directs the FCC to devote more resources to license renewal proceedings in order to minimize unnecessary and costly delays. Because of the tremendous investments at public interest considerations the Commission should give priority attention to renewal cases.

Mr. President, enactment of this legislation would benefit both the public and the broadcaster by focusing attention on actual performance, rather than unsubstantiated promises. I urge that prompt consideration be given this matter in the current session of Congress.

Mr. President, I ask that the text of the bill, S. 1311, 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. 1311

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 307(d) of the Communications Act of 1934 (47 U.S.C. 307(d)) is amended by striking the second sentence and inserting in lieu thereof the following: "Upon the expiration of any license (other than a broadcasting license transferred or assigned during the immediately preceding license period), upon application therefor, a renewal of such license may be granted from time to time for a term of not to exceed five years if the Commission finds that public interest, convenience, and necessity would be served thereby."

SEC. 2. Section 309(e) of the Communications Act of 1934 (47 U.S.C. 309(e)) is amended by adding the following at the end thereof: "Notwithstanding the preceding sentence, in any hearing involving an application for renewal of a broadcasting license, if the applicant for renewal makes a prima facie showing that its broadcasting service during the preceding license period (1) has reflected a good-faith effort to serve, and demonstrated a responsiveness to, the needs and interests of its area, and (2) that the operation of the station has not otherwise been characterized by serious deficiencies, then the burden of proof with respect to any petition to deny such application or any other application for the same broadcasting service shall be upon the petitioner or competing applicant to show that it would not be in the public interest, convenience, and necessity to grant the application for renewal. The Commission shall give expeditious treatment to all proceedings involving an application for renewal of a broadcasting license and shall provide that any hearing shall be structured so as to proceed as expeditiously as possible."

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 136

At the request of Mr. SCHWEIKER, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 136, a bill to authorize financial assistance for opportunities industrialization centers.

S. 423

Mr. RIBICOFF. Mr. President, due to a clerical error Senator HOLLINGS' name was added as a cosponsor of S. 425 rather than S. 423. I ask unanimous consent that Senator HOLLINGS' name be removed from the cosponsor list for S. 425 and added to the cosponsor list for S. 423, to establish a Department of Health.

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

S. 626, S. 627, S. 628, AND S. 629

At the request of Mr. Moss, the Senator from Rhode Island (Mr. PASTORE) and the Senator from West Virginia (Mr. RANDOLPH) were added as cosponsors of S. 626, to provide increases in certain annuities payable under chapter 83 of title 5, United States Code; S. 627, to provide that the first $4,000 received as civil service retirement annuity from the United States of any agency thereof shall be excluded from gross income; S. 628, to eliminate the annuity reduction made in order to provide a surviving spouse with an annuity during periods when the annuitant is not married; and S. 629, to increase the contribution by the Federal Government to the costs of Federal employees' health benefits insurance.

S. 775

At the request of Mr. EAGLETON, the Senator from Kentucky (Mr. COOK), and the Senator from California (Mr. TUNNEY) were added as cosponsors of S. 775, to amend the Public Health Service Act to provide for the establishment of a National Institute on Aging.

S. 1033

At the request of Mr. PACKWOOD, the Senator from California (Mr. TUNNEY) was added as a cosponsor of S. 1033, the Timber Export Administration Act of 1973.

S. 1285

At the request of Mr. MCGOVERN, the Senator from Wyoming (Mr. MCGEE), the Senator from Minnesota (Mr. MONDALE), and the Senator from Missouri (Mr. EAGLETON) were added as cosponsors of S. 1285, to prohibit the inspection of farmers' income tax returns by the Department of Agriculture for the purpose of gathering data for statistical purposes.

SENATE JOINT RESOLUTION 10

At the request of Mr. SCHWEIKER, the Senator from New York (Mr. BUCKLEY) was added as a cosponsor of Senate Joint Resolution 10, to amend the Constitution of the United States to provide voluntary nondenominational prayer in public schools and buildings.

SENATE JOINT RESOLUTION 24

At the request of Mr. MCINTYRE, the Senator from Maine (Mr. MUSKIE), the Senator from Minnesota (Mr. HUMPHREY), and the Senator from New Mexico (Mr. DOMENICI) were added as cosponsors of Senate Joint Resolution 24, to establish the fourth Saturday of each September as "National Hunting and Fishing Day."

SENATE CONCURRENT RESOLUTION 15—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO USE OF CERTAIN FACILITIES BY MEMBERS OF THE RESERVES AND NATIONAL GUARD

(Referred to the Committee on Armed Services.)

Mr. THURMOND. Mr. President, today the Nation is facing real problems in attracting and holding sufficient military personnel to insure a level of defense readiness necessary to provide for the national security.

The retention of military personnel of sufficient quality and in sufficient quantities is a matter which has received much attention by the responsible committees in the Congress.

Various incentives have been approved by the Congress aimed at attracting and holding both active military personnel and members of the Reserve and Guard.

Today I wish to address one facet of this problem—the retention of reservists and guardsmen. While many programs such as special pay, enlistment and reenlistment incentives and other inducements are under consideration there is one improvement that can be taken without any expense and with very little trouble.

That step involves the lifting of present restrictions on members of the Guard and Reserve when using post and base exchanges during inactive duty training periods at or near military installations.

Under present regulations these men have access to the exchanges but they are restricted from buying many items available to active force patrons. This restriction runs counter to the total force concept and serves as an unnecessary irritant to reservists who happen to have monthly weekend drills at or near military installations.

Mr. President, some oppose lifting this restriction. This opposition is based on possible overcrowding of the exchanges, adverse reaction from local merchants and problems which may result from a higher increase of volume at the exchanges.

OVERCROWDING

As to overcrowding, studies indicate there would be little overcrowding as reservists and members of the Guard on inactive duty training are currently using the exchanges except they are limited in their shopping to sundry items. Thus, the traffic would not increase significantly except that the Reservists may buy more and possibly be in the exchanges longer.

In considering the overcrowding argument it should also be remembered that Reserve personnel on inactive duty training would have very little time for shopping because of the increased training program requirements on weekend drills. This limited time to use the exchanges and the fact that reservists only drill one weekend a month indicates the modest expansion involved in this proposal.

"MERCHANT REACTION"

As to the "merchant reaction" argument, it would seem to me the impact would be slight in view of the relatively small number of Reservists and members of the Guard who are on inactive duty training schedules. In past years merchants have opposed expanding exchange privileges. However, with discount stores the exchanges today simply do not offer the value of past years. Further, this limited expansion really does not permit significant shopping but rather special item shopping because of the time element involved.

It is my view that our merchants would not see this very limited expansion of exchange privileges as a significant encroachment on their businesses. After all, they benefit, as do each of us, by these individuals who give of their own time each week or month to help support this Nation's defense requirements.

VOLUME PROBLEMS

Further, as the active forces grow smaller it would seem that the exchanges would welcome this small amount of business. The argument that this change would result in a big volume increase in business is simply not supported by the facts. Weekly buying involving one's family results in volume, but not one individual on one weekend a month whose time is restricted by training responsibilities.

In fiscal year 1972 the exchanges worldwide experienced a 2-percent drop in sales and a sizable drop in earnings. Thus, this change to make the Guard and Reserve more attractive may help the exchanges maintain an earnings rate which benefits all military personnel.

Mr. President, remember my proposal is merely to allow an expansion of already authorized shopping privileges. It does not open the exchanges to Reserve personnel at all times. Thus, this is a very limited step to remove an unnecessary and chronic irritant.

Even if there were small problems resulting from an increase in volume, the change would seem justified in that it would demonstrate to the members of the Reserve and Guard the basic equality of the Total Force Concept.

There has been opposition to an expansion of exchange privileges for Reservists and members of the Guard for many years. During the buildup for Vietnam, when hundreds of thousands were added to the military roster, one could see how problems may have resulted. However, today discount stores offer items just above cost and the exchanges do not offer even the regulars the advantages available at one time. Coupled with the general decline in regular and reserve forces, now may be the time to allow this limited expansion of exchange privileges as an incentive to our Reservists and Guard members.

Mr. President, with this view in mind, I am today offering a concurrent reso-

lution for consideration of the Congress. While it is my hope the Secretary of Defense will consult with the Congress on a plan to make this change, I believe approval of this resolution will strengthen his hand in any implementation which may come about from such consultations.

The concurrent resolution is as follows:

S. CON. RES. 15

Resolved by the Senate (the House of Representatives concurring), That it is hereby declared to be the sense of the Congress that members of Reserve components of the Armed Forces of the United States and members of the National Guard, while performing inactive duty training at or near any United States military installation, should be extended the same privileges of use with respect to post and base exchange facilities as are extended to active duty personnel, and that the Secretary of Defense should take prompt action to extend such privileges to such members when they are performing inactive duty training.

NOTICE OF RESCHEDULING OF HEARINGS ON S. 798

Mr. BURDICK. Mr. President, the hearings of the Senate Subcommittee on National Penitentiaries on S. 798, the Community Supervision and Services Act, which were scheduled for Thursday, March 22, 1973, have been rescheduled for Tuesday, March 27, at 10 a.m. in room 4200 of the Everett Dirksen Office Building.

ANNOUNCEMENT OF HEARINGS ON STATE DEPARTMENT AUTHORIZATION LEGISLATION

Mr. ROBERT C. BYRD. Mr. President, at the request of the chairman of the Committee on Foreign Relations, I announce that the committee will hold hearings on legislation to authorize appropriations for the Department of State, S. 1248 and S. 1171, on April 3, 4, and 5. The hearings will be chaired by Senator Pell. Anyone wishing to testify on these bills should contact the clerk of the committee, Mr. Arthur M. Kuhl.

ANNOUNCEMENT OF HEARINGS ON EXECUTIVE PRIVILEGE AND GOVERNMENT SECRECY

Mr. MUSKIE. Mr. President, beginning April 10, 11, and 12, the Subcommittee on Separation of Powers of the Committee on the Judiciary and the Subcommittee on Intergovernmental Relations of the Committee on Government Operations, with the participation of the Subcommittee on Administrative Practice and Procedure of the Committee on the Judiciary, will hold a number of days of hearings on Executive privilege and Government secrecy.

I ask unanimous consent that a news release announcing these hearings and containing a joint statement by the Senator from North Carolina (Mr. ERVIN) and myself on their purpose be printed in the RECORD at this point.

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

ERVIN, MUSKIE, KENNEDY SUBCOMMITTEES JOIN FOR EXECUTIVE PRIVILEGE, SECRECY HEARINGS

Senators Sam J. Ervin, Jr., and Edmund S. Muskie announced today that their two subcommittees will hold joint hearings, beginning April 10, 11, and 12, on Executive Privilege and Government Secrecy.

The Joint hearings will be conducted by the Judiciary Subcommittee on Separation of Powers, chaired by Senator Sam J. Ervin, Jr., D–N.C., and the Government Operations Subcommittee on Intergovernmental Relations, chaired by Senator Edmund S. Muskie, D–Maine, with the participation of the Judiciary Subcommittee on Administrative Practice and Procedure, chaired by Senator Edward M. Kennedy, D–Mass.

Announcing the beginning of the joint hearings, Senator Ervin and Senator Muskie issued the following joint statement: "Our subcommittees have before them measures to deal with an increasingly grave Constitutional dispute, the conflict between the President and the Congress and between the government and the ordinary citizen over access to information all of us should be sharing if our democracy is to function as it should. These hearings, initiated at the specific request of the Senate leadership, will give us and the country an opportunity to weigh the claims that are now in conflict.

"The Executive asserts an unrestricted 'right' to deny Congress and the public the testimony of Presidential advisers past and present, arguing that their views, to be developed and presented with the necessary candor, require eternal privilege. The Congress, concerned with developing the best-informed criteria for the national policy decisions the Constitution gives it to make, cannot do with less than full access to the testimony and documentation essential to the wise performance of its duty. The public, the ultimate referee of our decisions and those of the President, must have the knowledge on which to base its judgments.

"Our two subcommittees will be looking at legislative proposals which will restore to Congress its rightful role in the Separation of Powers doctrine. The time has come when the Congress must have the will to stop usurpations of its power by the Executive Branch of government. We feel that these hearings will be a step in that direction.

"We are fortunate in having the cooperation of Senator Kennedy and the Subcommittee on Administrative Practice and Procedure in this vital inquiry. We look forward to receiving the guidance of other interested members of the Senate and to undertaking the task they have given us."

The joint hearings are a continuation and extension of hearings begun in the 92nd Congress by Senator Ervin's Subcommittee on Separation of Powers, "Executive Privilege: The Withholding of Information by the Executive." The three subcommittees will be considering two bills on executive privilege and one bill to amend the 1967 Freedom of Information Act. The measures are S. 858, introduced by Senator J. William Fulbright (D-Arkansas), Senate Joint Resolution 72, introduced by Senator Ervin, and S. 1142, introduced by Senator Muskie. Other legislative proposals affecting Congressional and public access to official information are also expected to be introduced before the hearings open.

The opening three days of testimony will be held in the Judiciary Committe hearing room 2228, in the Dirksen Senate Office Building, beginning at 10 o'clock each morning, April 10, 11, and 12.

ANNOUNCEMENT OF HEARINGS BY COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

Mr. MOSS. Mr. President, in continuation of our detailed investigation of NASA's authorization request for fiscal year 1974, the Committee on Aeronautical and Space Sciences will take testimony on April 4 from representatives of several organizations. I ask unanimous consent that this witness list be printed in the RECORD.

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

COMMITTEE ON AERONAUTICAL AND SPACE SCIENCES

CONTINUATION OF HEARINGS ON S. 880, NASA AUTHORIZATION FOR FY 1974

Witness List for April 4, 1973

Leonard Woodcock, President, United Automobile Workers.

Karl G. Harr, Jr., President, Aerospace Industries Association.

James J. Harford, Executive Secretary, American Institute of Aeronautics and Astronautics.

General Clifton F. von Kann, Senior Vice President for Operations and Engineering, Air Transport Association.

(NOTE.—Additional routine morning business is printed later in the RECORD.)

ADDITIONAL STATEMENTS

AMBASSADOR DAVID BRUCE

Mr. HUMPHREY. Mr. President, President Nixon is to be commended for having selected Mr. David Bruce as the first official U.S. representative to the People's Republic of China.

Ambassador Bruce is one of the most talented and skillful diplomats that our country has produced in this century. He has served our Nation brilliantly in many critical assignments and sensitive situations. His years of experience have given him those unique qualities of wisdom and judgment which are so necessary in diplomacy.

The Government of the People's Republic of China should feel honored by the quality of our U.S. representative, and our country is indebted to David Bruce and his lovely wife, Evangeline, for being willing to undertake this all important mission.

The respected columnist and scholarly observer of the international scene, Mr. James Reston of the New York Times, has given us a thoughtful evaluation of President Nixon's appointment of David Bruce in his column of March 16. I ask unanimous consent to have the column printed as part of my remarks.

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

THE GENTLEMAN FROM VIRGINIA

(By James Reston)

It seldom happens in these hairy youthful days that anybody chooses a wise old gentle-

man for a critical job, but President Nixon has done it again by picking David Kirkpatrick Estes Bruce of Virginia to be the first official U.S. representative to the Communist Government of China.

At first glance, it seems a surprising appointment. Mr. Bruce is 75, and has already made more farewell appearances from public life than Leo Durocher or Mme. Schumann-Heink.

The Old Geezer network has been saying so-long to David Bruce for twenty years. Since he started in the Foreign Service in Italy in 1926, he has been given a farewell party when he retired as U.S. Ambassador to France in 1952; then again when he retired as U.S. Ambassador to the Federal Republic of Germany in 1959, and again when he retired as U.S. Ambassador to Great Britain in 1961.

After which he fixed up a retirement house on 34th Street in Washington, built a blind wing on it and let the ivy grow up to the roof, and kept a flat in London for his quiet repose. Whereupon he was called back to negotiate peace in Vietnam in Paris, without success, and finally he retired for good—still spare and handsome, white-haired, cautiously slow, but alert and elegantly courteous.

Now, suddenly he has been called back again to go to Peking, and he and his lovely wife, Evangeline, who was a student of Chinese history at Harvard with John Fairbank, have agreed to go, and it will not be easy.

Peking will not be like the Bruces' diplomatic life in the beautiful American embassies in London, Paris and Bonn, with their mansions and paintings and elegant diplomatic dinners, and easy access to prime ministers, chancellors and cabinet officers.

The United States Government still owns elegant houses in Peking, but they are being used now for other purposes, and all Western diplomats now work out of a new diplomatic "compound," which looks like a block of middle-class apartments in New York or Chicago.

Still, it would be hard to imagine a better American appointment to Peking. David Bruce is beyond personal ambition. He has gone through all the struggles of his own country. He has been a member of both the Virginia and Maryland Legislatures. He is almost precisely the age of Chou En-lai and a little younger than Mao Tse-tung, and if, occasionally, they want to talk about the fundamental questions of the coming world order, Bruce will be equal to their questions.

Mr. Bruce does not have the Chinese language, but he will have experts at his side. For more than a generation, the United States has been training men like Al Jenkins in the State Department and David Osborne in the U.S. mission in Hong Kong, who have devoted most of a lifetime to the study of China and its language and philosophy.

But David Bruce has the main thing. He has that gift of time and history, which Henry Kissinger used to such advantage in reaching an accommodation with Chou En-lai. And this may be very important in the next few critical years.

Most American Ambassadors these days seem unimportant. The jet airplane has reduced their power and ironically, they are in physical danger everywhere except in the Communist capitals. But the American envoy in Peking is still in a critical and powerful position, if he can talk honestly and privately to Chou En-lai. And Bruce can probably manage to do this better than most younger men.

It is interesting that President Nixon understood this point, and appointed a Virginia Democrat to the post. Mr. Bruce has opposed Mr. Nixon in the past, and was once in trouble with the Republican politicians for contributing money to the Democratic party. But Mr. Nixon has kept on appointing him, despite Mr. Bruce's Democratic party loyalties, and has now trusted him with the task of developing a new order between Washington and Peking in Asia.

Equally interesting is why David Bruce agreed to take on this hard job at 75, give up his dreams of a quiet life in Georgetown, Virginia and London. Maybe because, after his remarkable career, he was bored in retirement, but probably because he could not help it. He grew up in another age, when men did what the President asked them to do, even if they thought it was not wise or beyond your powers. So he is going to that compound on the verge of Peking, and everybody who knows him thinks he will be faithful to his assignment.

PENN CENTRAL PROBLEMS

Mr. PACKWOOD. Mr. President, as a result of Public Law 93–5, legislated last month just hours into the Penn Central strike, the administration is required to come up with recommendations for the restoration or preservation of rail transportation services in the Northeast. Whether we like it or not, Congress will be face to face with the overwhelming problems of the Penn Central again in the very near future.

Discussions of the Penn Central situation seem too frequently to be simplistic, emotional, and not particularly grounded in fact. It was therefore gratifying to read in the Washington Post of March 11, 1973, a thoughtful and well-balanced evaluation of the many and varied difficulties facing the Penn Central. I direct my colleagues' attention to this writeup, and ask unanimous consent that it be printed at this point in the RECORD.

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

PENN CENTRAL: THE ROAD TO NATIONALIZATION

(By Robert J. Samuelson)

The Penn Central is slowly—but inexorably—drifting toward nationalization.

Given the American genius for gimmicks, it may never be called that. Instead, there may be some Amtrak-like fiction. Amtrak—inheritor of the nation's intercity passenger trains—wasn't a formal nationalization. After an initial injection of federal money, it was supposed to make a profit and be self-sufficient. That's what the legislation said, but very few congressmen expected it to turn out that way, and it hasn't. In its first two years, Amtrak has spent nearly $2 for every $1 it's taken in, gobbling up almost $180 million in federal funds. Even if many of its present trains are eliminated, there's little prospect of Amtrak's ever weaning itself from an annual appropriation.

Congress, of course, isn't eager to go this route with the Penn Central, but it may have little choice. Last week, U.S. District Judge John P. Fullam, who's overseeing the Penn Central bankruptcy proceedings, in effect delivered an ultimatum: Either Congress makes some very drastic—and unpopular—changes that will allow the railroad to become a profitable private company or he may simply shut it down on Oct. 1.

As much as Congress would like to ignore Fullam, it can't. The Penn Central is virtually indispensable. A few statistics make this unmistakably clear. The railroad handles about 20 per cent of the nation's rail freight (and rail freight, in turn, amounts to about 40 per cent of all intercity freight). In 1971, that meant 80 million tons of coal, nearly 50 million tons of metals and ores, 20 million tons of food products, and 14 million tons of paper. The total is a staggering 260 million tons, which, as a practical matter, is probably too much to be shifted to trucks or other railroads.

These dry statistics, explain why Congress has always reacted so quickly to any real threat to the Penn Central's continued operation. Last month, for example, it took but a day to pass a joint House-Senate resolution halting a strike against the railroad. Little as Congress likes rescuing discredited enterprises, it likes even less shutting down the whole economy of the Northeast—the ports, the factories, and the power plants that are all dependent on continued service from the Penn Central. The first is distasteful, the second unthinkable.

And when Congress considers the unsavory choices presented by Fullam, it may decide that the only politically palatable alternative is some type of bastard-nationalization.

PLAN FOR SURVIVAL

Make no mistake about it: This would be a momentous step. Over the next five or ten years, the cost to taxpayers could run into the billions. Moreover, once the federal government effectively took charge of the nation's largest railroad—and probably four or five other bankrupt Northeast carriers, too—it would be increasingly vulnerable to pleas from other railroads, competing truckers or barge lines for federal assistance. Already, these three industries are pushing legislation to provide up to $5 billion in federally guaranteed loans.

The proverbial Pandora's box would be opened. And the special brand of American capitalist-socialism—in which firms nominally remain free, but the government controls all the crucial decisions—would have swallowed another major industry. The defense industry is already clearly in this orbit, as are the nation's shiplines and yards, which together receive $400 million a year in subsidies.

To appreciate Congress' dilemma, consider what the Penn Central trustees, appointed after the initial bankruptcy in June, 1970, think are the minimum requirements for making the railroad profitable again:

First, they say, they need a one-time gift of $600 million to $800 million in federal cash to modernize old-fashioned freight terminals and repair miles of neglected track. Only with these improvements, the trustees say, can the Penn Central improve its service sufficiently to attrack enough new freight traffic to get into the black.

Next, they want the United Transportation Union to agree to eliminate one man—a man who isn't required for safety or workload considerations, the Penn Central says—on every freight train crew. Though the cuts would be made gradually by attrition, the change would ultimately mean a loss of 5,700; union jobs and a $100 million annual saving for the Penn Central. The UTU, naturally, hasn't accepted the proposal, and Congress—directly or indirectly—will probably have to settle the issue.

In addition, the trustees want to abandon service on 5,000 miles (out of a total of 20,000) of track which, they say, is lightly used and highly unprofitable.

Finally, they insist that Penn Central is still losing money on inter-city and commuter trains and that Amtrak and state and local governments must underwrite the deficits. These now amount to $88.2 million.

The average congressman isn't likely to vote the Penn Central a $600 million to $800 million blank check without questioning this master plan for survival. It is not a plan that would make the congressman very popular. First, there is no real guarantee that the $600 million to $800 million would do the trick, without additional federal payments

later. Second, the rail unions would be furious: Not only would the 5,700 jobs at the Penn Central be lost but, once the larger crews are seen to be unnecessary, other railroads would press for similar reductions, imperiling thousands of additional jobs. Finally, freight shippers and towns along the 5,000 miles of threatened track would fight the master plan because they would see it, correctly as a scheme to get more subsidy for less service.

Suppose Capitol Hill won't buy the Penn Central's master plan? Instead, suppose Congress gives the railroad some money to keep it going, but conditions this cash with restrictions on the railroad's freedom to cut back on service or reduce freight crews. Then—unless the trustees' calculations are wildly inaccurate—the Penn Central would never be profitable again; it would have to be permanently subsidized at a much higher total cost. A lot of complicated, sophisticated schemes would be thrown up to disguise this, but most would be camouflage. The result would not be called nationalization, but that's what it would be.

A GAME OF BRINKMANSHIP

Congress invited this crisis upon itself. Nearly two years ago, the trustees indicated that the railroad could not become profitable again unless it could jettison—or receive direct subsidies for—unprofitable branchlines. unnecessarily large freight crews and deficit-ridden passenger service. Congress did nothing. Judge Fullam presumably drew the unavoidable lesson from this inactivity: Changes would never be made unless he provoked a crisis.

Anyone watching the Penn Central bankruptcy in Congress or the executive proceedings must have sensed that it would ultimately come to a court-manufactured crisis. For months, the trustees, undoubtedly with the tacit approval of Fullam, have been playing a deliberate game of brinkmanship, using creditors' "rights" to try to force some type of government action on the railroad. The Fifth Amendment of the Constitution says: "No person shall be . . . deprived of life, liberty or property without due process of law. In a speech last month George Baker, one of the railroads trustees, said: "Without government action one way or the other, the time beyond which the Penn Central cannot continue operations constitutionally will shortly be at hand. The writing was on the wall, but Congress, the White House and the Department of Transportation didn't want to read it.

Apart from Congress' inbred inability to act except under crisis conditions, other factors have indirectly conspired to bring about the current showdown. The public, for one, is clearly indifferent about the main business of the railroads carrying freight. An opinion survey by the railroad industry a few years ago turned up an interesting, though predictable, finding: Mention railroads, and two-thirds of the respondents immediately thought of passenger service, which, even before Amtrak, accounted for less than 5 percent of the industry's total revenues.

Also, the news media have failed to grasp what's been happening to the Penn Central. For the last two and a half years, we've been content simply to treat the Penn Central as a kind of public tackling dummy—a defenseless target for ridicule. The railroad, to be sure, offered ample opportunity, with countless examples of high comedy: Penn Central executives trying to organize (illegally and unsuccessfully) their own airlines; Penn Central executives being swindled out of $4 million by a slick Liechtenstein investor, and Penn Central executives dabbling in the stocks of companies controlled by the Penn Central. But by highlighting these foul-smelling episodes, we may have glossed over the longer-term, more significant story. Congress, too, is probably guilty of the same myopia.

SCENARIO FOR BANKRUPTCY

To understand how events have drifted this far, we have to step back a couple of years to June, 1970, and follow what's happened to Penn Central since it officially went "bankrupt."

Going bankrupt is usually a relatively straightforward way for a company to die. If it can't pay its debts—and the creditors aren't willing to wait—the company simply closes its doors. The assets (if there are any) are sold off, and the proceeds distributed to the creditors. Everyone goes away unhappy, but everyone goes away.

Not railroads. There is a special part of the bankruptcy laws which tries to reconcile the interests of the creditors, who want to get paid, and the public, which must continue receiving freight and passenger service. This section allows railroads to continue running; instead of being liquidated, they are supposed to be "reorganized" into profitmaking companies.

* * * * *

And presto, there is a new, viable company. So far, the Penn Central hasn't gotten much beyond step one; since June, 1970, it hasn't had to pay $250 million annually (about $200 million in suspended debt payments and the rest in local real estate taxes).

That, to be sure, is a tidy saving. And there have been improvements. The work force has dropped from 95,000 to 81,000. On-time performance of trains has risen, and shipper complaints of sloppy service have declined from about 60 a week before the bankruptcy to about 10. The railroad has even attracted additional "piggyback" traffic (truck trailers riding between major terminals on flat cars). But there have also been wage increases ($700 million worth, according to the Penn Central), inflation and Hurricane Agnes. When everything is added together, the Penn Central would have lost—if it had been paying all its costs—$222.8 million for 1972, an improvement over the 1971 deficit ($284.5 million) but still a monstrous loss.

MORE THAN MISMANAGEMENT

Against these demoralizing figures, the textbook begins to look out of date. The suspicion deepens when you examine closely the reassuring notion—deeply embedded in the popular consciousness—that the Penn Central went bellyup only as a result of mismanagement; the railroad, therefore, could be straightened out simply by running it correctly. You can forget that theory.

Not that the Penn Central didn't have enough mismanagement for most of the Fortune 500. Three massive, well-documented government reports turned up countless examples of misjudgment, deceit and ineptitute: The executives tried to diversify into nontransportation industries, draining away needed funds from railroad investment; there was inadequate planning for the 1968 merger between the Pennsylvania and the New York Central lines, resulting in congested freight yards and lost shipments; the railroad resorted to some fancy accounting to disguise just how bad things were. Change management, the critics said, and the problems were bound to disappear.

Unfortunately, time and events have not dealt kindly with this popular panacea. Under bankruptcy, the top management has been sanitized. Judge Fullam appointed bankruptcy trustees (there are now three) to run the Penn Central and must approve all their major decisions. Most of the railroad's top management has been sent to the showers—and some could ultimately end up in jail. The new executives came with good reputations from efficient (and profitable) railroads. Though the Penn Central may still not be the world's most efficiently run enterprise, time has only shown that its troubles are deeper than incompetence.

Anti-pollution laws have added to the railroad's woes. In the past five years, utilities have shifted away from high-sulphur "dirty" coal to cleaner-burning oil. Coal was the Penn Central's bread and butter, and the railroad's trustees estimate that the change has meant a loss of about 22 million tons annually, worth about $75 million in freight revenues. A healthy railroad could absorb that; the Penn Central can't.

But the railroad's real undoing has been the geography and history of the Northeast. Heavy industry, the prime candidate for rail transportation, isn't growing rapidly. Travel distances are relatively short, making the railroads especially vulnerable to truck competition. Freight yard costs—stemming from the necessity to make frequent interchanges at major cities—are high. The Northeast is a graveyard for railroads; six are in "reorganization." Total freight traffic in the East in 1970 wasn't what it was in 1955. And the problems won't go away no matter who owns the Penn Central—including the government.

COALITION OF INTERESTS

As the government ponders what to do about this mess, there will be much ferocious lobbying, and, once a decision is made, there will be inevitable cries of a "bailout" of the Penn Central. Though this is satisfying rhetoric, it's essentially misleading, because it obscures who's really being bailed out. The Penn Central is now simply a front for a variety of interests—unions, creditors, local governments and shippers—all vying for survival. Everyone wants a bailout of one sort of another:

1. The unions: The United Transportation Union, the largest operating union, has already said that it doesn't oppose nationalization. Why should it? The Penn Central not only wants to eliminate the UTU's 5,700 jobs, but if the 5,000 miles of track can be abandoned, there will be need for still fewer workers. The rail unions have never been known as weaklings on Capitol Hill, and, if the government comes in, there may be a way of preserving the 5,700 jobs and minimizing total abandonments.

2. States and localities: They want their real estate taxes resumed and abandonments—which would mean the end of relatively cheap freight transportation to remote and, in some instances, depressed, areas—minimized. Freight service along many of these lines may have to be subsidized, but most state and local officials would prefer the federal government to do the subsidizing.

3. Shippers along the 5,000 miles of threatened track: At first blush, the trustees' plans seem unnecessarily draconian, but there is one telling statistic: 80 per cent of the railroad's traffic comes from 11,000 miles of its network. There will, nevertheless, be genuine cases of hardship. The Penn Central has been slow and sloppy in presenting its cases for individual abandonments, and some shippers argue that they can't stay in business if they shift to more expensive truck freight. It's hard to tell how much of this is bluff, but one thing is certain. If service is to continue on the lightly traveled lines, it has to be subsidized by someone—either by other shippers in the form of higher freight rates or poorer service, or by the federal government, or by the affected communities (or states) and shippers themselves.

4. The creditors: The vocabulary of creditor lawyers includes a phrase—"erosion of the estate"—that's central to understanding the creditors' stake in government help. Under the bankruptcy laws, whenever the Penn Central gets enough money to start paying

someone again, it must first pay off certain expenses that have accumulated since bankruptcy: real estate taxes, post-bankruptcy loans (in this case, a $100 million loan guaranteed by the government); and lease payments for branch railroad lines that are part of the Penn Central's system but belong to other companies. If the railroad were ever to be liquidated—or, to be deemed liquidated as part of a government takeover—these payments, too, would come before reimbursement of the bondholders. So, the more "erosion" there is, the unhappier the creditors are. There has already been $500 million in erosion.

The bondholders interest is relatively simple: Let the government pump in some money to resume real estate taxes, allow adoption of the master plan, and get the railroad back on its feet as quickly as possible. If creditors can put aside nostalgic feelings about "private enterprise," a complete takeover might even be better. It is risky; the creditors' fortunes ride on how much the railroad is found to be worth in a condemnation proceeding. But, especially for creditors way down on the payoff list, the chances of squeezing a good settlement out of the government may be better than the prospects of realizing something from a revitalized Penn Central.

POLITICAL POISON IVY

Its little wonder that the Penn Central is political poison ivy, untouchable by almost everyone who is anyone in Washington. Given the conflicting interests, virtually anything the government does about Penn Central will offend powerful forces or create a public relations disaster. If Congress bows to the unions and the localities, it will have to contrive some sort of nationalization—but that also means paying off the creditors. No congressman in his right mind wants to wake up in the morning next to big banks and insurance companies. Yet here, for example, is a list of major insurance companies which hold nearly $400 million in defaulted Penn Central bonds:

	Millions
Aetna	$9.4
Connecticut General	31.4
Connecticut Mutual	10.0
Equitable	147.5
John Hancock	29.1
Mass Mutual	11.1
Metropolitan	69.9
Mutual Benefit	8.9
New England Mutual	10.1
New York Life	25.4
Penn Mutual	13.3
Prudential	35.4

On the other hand, going along with the Penn Central's master plan also benefits the creditors and risks alienating the unions and localities. So the only safe and cheap thing to do is nothing.

Unfortunately—as Fullam's decision last week indicated—it's a policy without a future. In the coming showdown, no one will win. Not the creditors, who will never get all their money back. Not the unions, because the number of jobs is slowly—but surely—shrinking. Not the localities, which are bound to lose some rail service. Not the federal government which, no matter how ingenious it is, will have to make a hefty investment in the Penn Central at some point.

But no one is playing this game to win. Everyone is simply playing to minimize his losses—shift them to someone else. And that someone will probably be the U.S. Treasury. When Congress comes nose to nose with the unpleasant realities of the Penn Central, it will probably take the least unpopular—and most expensive—way out. After all, it's only money.

NIXON'S PRESIDENCY: A CRISIS IN CONGRESS

Mr. BIDEN. Mr. President, the struggle for the Congress to regain an even footing in its constitutional relationship with the executive branch is a hallmark of this 93d Congress. Properly so.

Not that the struggle began in this Congress. It germinated in earlier Congresses. For a studious and judicious analysis of how far the Congress has retrogressed, I recommend Senator FRANK CHURCH's discussions of the matter—a speech entitled "Of Presidents and Caesars" and an article published in the Stanford University Law Review, "Impoundment of Appropriated Funds: The Decline of Congressional Control Over Executive Discretion."

I commend those who have initiated this vital struggle, because, although only 2 months a Senator, I am dismayed at the imbalance between the two branches. I willingly join my seniors in order to make any contribution they may wish me to make.

In the New York Times of March 5, 1973, there appeared an article by John Hebers which underscores the grave constitutional crisis—compounded by a willingness of the incumbent administration to exacerbate the crisis further.

Mr. Herbers warns us in his concluding sentence:

In the past, once a President gained new powers, they remained for his successors.

Mr. President, I ask unanimous consent that the New York Times article, to which I have referred, be printed in the RECORD.

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

(By JOHN HEBERS)

WASHINGTON, March 4.—"You just think we're dumb," Senator Clifford P. Case, Republican of New Jersey, told George P. Shultz, Secretary of the Treasury and Counselor to the President, during a recent hearing on Capitol Hill.

Senator Case was not only right about White House disdain of Members of Congress, he was also understating it.

"Congress is lazy, too," said a Presidential aide, pounding his fist on his desk for emphasis during a recent interview. "They work short hours. They don't know how to consult. They say they want to consult with the President, but then they come up here and don't say anything."

"They criticize us for not advising or consulting them in military matters," he continued. "But they canot keep a secret. If we tell them anything it is out within 30 minutes after they have gone back to the Hill."

That atittude toward Congress runs deep in the White House, and it underscores the seriousness of the constitutional struggle being waged between the executive and legislative branches of the Government as President Nixon, wielding perhaps more power than any President in history, moves into a second term with a landslide victory behind him.

At the heart of the contest is the President's recent move to reorder domestic priorities by impounding funds and liquidating some agencies despite Congressional mandates. But it also involves a general erosion of powers from the Congress to the Presidency, a process that has been under way for many years but has accelerated in the Nixon Administration.

A survey of a wide range of authorities on the Government during the last several weeks shows that, in the opinion of many, the struggle is so weighted to the side of the Presidency that if Mr. Nixon does not relax his demands—his aides insist that he will not—Congress could be left far weaker than it already had become when Mr. Nixon took office in 1969.

"We are now in the midst of a grave and domestic constitutional crisis brought on by the Administration's unilateral efforts to reorder our domestic priorities," said Senator Jacob K. Javits, Republican of New York, who actively supported Mr. Nixon's re-election. "This crisis covers every aspect of legislation pending in the Congress or which may be proposed."

SOME ADMINISTRATION CONCERN

On the other hand, there is concern within the Administration that the fight will become so embittered and members of Congress so enraged that they will find ways to upset the President's goals and priorities.

"I agree 100 per cent with what the President is doing," said a high Administration official. "But I fear the spending fight with Congress may go too far."

Nevertheless, beyond the immediate issues and priorities, what is at stake is whether Congress survives as a strong and effective branch of the Government and whether more power continues to accumulate in the Presidency without accompanying restraints and means of accountability to the public, according to many students of government.

Some contend that the erosion of Congressional authority to the Presidency already has gone further under President Nixon than is generally recognized. Following are some of the developments:

President Nixon broadened and institutionalized the war powers of his office by conducting the war in Southeast Asia at his pleasure under precedents and practices used by former President Johnson, but without as close consultation with Congress, which under the Constitution holds the authority to declare war. He also extended the practice of using executive agreements in foreign affairs in place of treaties, which require Senate approval. Thus, "an illegal war was ended by an illegal agreement," according to a Congressional staff member referring to the recent settlement of the war in Vietnam.

While the nerve ends of many members of Congress were still raw from the long and bitter fight on war powers, President Nixon served notice in his recent budget message that in order to control inflation and carry out his campaign pledge not to seek a tax rise, he would not fund some programs enacted by Congress and would curtail others, with Great Society social programs enacted under Democrats in the nineteen-sixties bearing the brunt of the cuts. This went further than any other President had in moving against Congressional power to spend.

Although his aides strongly deny it, it is the opinion of many nonpartisan authorities on the subject that President Nixon has broadened the use of executive privilege to protect himself and members of his Administration from Congressional and public inquiry.

Reorganization of the executive branch by the President has curtailed Congressional access and authority in some areas of the Government. For example, by increasing the budgetary controls by the executive branch over the regulatory agencies, a power that once rested solely with Congress, the Administration forced the Federal Trade Commission, through a cut of funds, to cancel a planned investigation in hospital and medi-

cal practices, according to the testimony of the former commission chairman, Miles W. Kirkpatrick.

In a number of little ways, the Nixon Administration has defied Congress. When the Senate Finance Committee wanted to conduct its own study of the welfare situation, the Administration would not let the committee use its computers and would make only that information available for the computers that the Administration wanted it to have.

President Nixon, who terms himself an activist in the Presidency and views the office as the chief representative of the public, said in his Jan. 31 press conference that Congress represented special interests while the President represented all of the people.

"The Interior Committee wants to have more parks and the Agriculture Committee wants cheap R.E.A. [Rural Electrification Administration] loans and the Committee on Education and Labor wants more for education, and each of these wants we all sympathize with," he said. "But there is only one place in this Government where somebody has got to speak not for the special interests which the Congress represents but for the general interest." That place, he said, is the White House.

LITTLE SOUGHT FROM CONGRESS

On the spending issue, President Nixon is in a unique position. He is the first President since the Federal budget became an important instrument in managing the economy—a development of the last two decades—to be caught in a position of having steadily rising Government costs collide head-on with his policy for controlling inflation. That policy is to hold spending to a budget level of $268-billion for the fiscal year beginning July 1, rather than raising taxes.

The fight with Congress is essentially over which branch of the Government will decide which programs will be cut and how much. Mr. Nixon has moved to do so by executive action while legislation contend that such power belongs to the Congress.

Further according to sources both in and out of the Administration, there is not much Mr. Nixon wants from Congress this year. His program is for contracting many Government services, not expanding them.

Charles L. Schultze, who was budget director under President Johnson and is now with the Brookings Institution, pointed out in an interview that other recent Presidents all wanted something from Congress in legislation, usually quite a lot.

"In the past," said Mr. Schultze, "funds would be impounded for a time, as Mr. Nixon is doing now, but they became a matter of negotiations between the President and Congress and eventually most of them would be released."

"For at least 15 years," he continued, "Presidents have been trying to get rid of the Rural Environmental Assistance Program or have it reduced, but they always gave in to Congress in the end because there was something they wanted from Congress. Now Nixon has simply cut it off and there is no bargaining position."

A TEST OF WILLS

The program, called REAP, which helps farmers reclaim land, has been costing more than $200-million a year. Congress, as a test of wills, is in the process of passing legislation that would force the President to spend the money, but White House sources say the President is confident that his opponents on the Hill can never muster the two-thirds vote in both houses needed to override his veto.

At the same time, the President's men are happily dismantling the Office of Economic Opportunity, the agency established by the Johnson Administration to help eradicate poverty, despite specific prohibitions in the law against doing so. White House lawyers say they are acting under other laws, delegations of power from Congress, that give the President authority to do so.

Nevertheless, Mr. Schultze and other experts agree that what Mr. Nixon is doing is boldly extending of power for the Presidency "in degree if not in kind." Mr. Schultze pointed out that the President's actions in impounding funds as Commander in Chief of the armed forces have far more precedent than impounding funds to eliminate entire domestic programs.

Thus President Jefferson's refusal to buy gunboats and President Truman's order to impound $700-million appropriated for the Air Force, examples cited by Mr. Nixon and his assistants, are not precedents at all for what is being done now, according to Mr. Schultze.

On the use of executive privilege, a debate has raged between the White House and Congress on whether Mr. Nixon has expanded that power, which most authorities agree is needed to protect the autonomy of the Presidency but is frequently used to hide waste, corruption or other misdeeds from the legislative branch.

A recent example of its use was the refusal by Air Force Secretary Robert C. Seamans Jr. to disclose the conversations he had with members of the White House in regard to the dismissal of A. Ernest Fitzgerald, who exposed the $2-billion overrun on the C–5A transport plane.

John D. Ehrlichman, assistant to the President for domestic affairs, said in an interview with U.S. News & World Report Feb. 18 that Mr. Nixon had adopted a procedure to minimize the use of executive privilege. He said that Mr. Nixon had invoked the privilege only three times in four years, whereas President Kennedy invoked in six times in three years.

"The President has been very openhanded in providing witnesses and documents to the Congress," he said.

Clark R. Mollenhoff, a former Nixon aide who is now Washington bureau chief for the Des Moines Register, has made a detailed study of the issue over a period of years. He contends that Mr. Nixon has broadened the use of executive privilege in several respects over practices of the Kennedy and Johnson Administrations, especially extending it to officials lower down the line.

"The President now says that all actions by White House officials can be treated as confidential and not subject to the subpoena process of the Congress or the courts," Mr. Mollenhoff wrote.

"The White House game plan has been to refuse initially all requests for information that are potentially embarrassing and to clothe all members of the White House staff with the 'executive privilege,'" he said. "If the issue becomes too hot to handle, as it did in the International Telephone and Telegraph case, the President will permit the White House officials to appear and answer questions in a manner as restricted as the practical political situation allows."

LAW IS PASSED OVER

President Nixon has extended powers over Congress in ways that have received little attention. After Franklin D. Roosevelt devalued the dollar during the depression, Congress passed a law in 1945 providing that only Congress could set the price of gold, the step involved in devaluation. Despite the law's explicit provisions, however, Mr. Nixon has twice devalued the dollar by executive action, and it drew no protest because of Congressional recognition that the world money markets should not be tipped off in advance as Congressional action would have done.

This is an example of how power has steadily accumulated in the Presidency. Over the years, Congress and the President have repeatedly waged war over constitutional authority, but most of the fights in the 19th century and well into the 20th involved Presidential revolt against Congressional dominance.

James A. Garfield in 1881, in fighting that dominance by refusing the advice of friends to compromise with a Senator on the appointment of the Federal collector of the Port of New York, said:

NEW POWERS STAY

"If it were a difference between individuals there could be some sense in such advice. But the one represents a whole independent function of the Government. The other is one-seventy-sixth of one-half of another independent branch of the Government with which compound vulgar fractions the President is asked to compromise."

Today it is Congress struggling to find ways to resist Presidential dominance.

In the past, once a President gained new powers they remained for his successors. Clinton Rossiter, the historian wrote during the Eisenhower Administration that "strong Presidents have been followed by weak ones; in the aftermath of every 'dictator,' Congress has exulted in the 'restoration of the balance wisely ordained by the fathers.' Yet the ebbs have been more apparent than real, and each new strong President has picked up where the last one left off."

Presidential scholars, who have educated millions of Americans on the need for a strong Presidency and are now frightened by the Nixon phenomenon, still by and large advocate a strong Presidency but want to keep a vital Congress as a check on the executive office.

Henry Steel Commager, asked for an answer to the current struggle, said, "One answer would be impeachment if the Congress had any guts, but it doesn't. The simple answer is to really assert the appropriation power."

But the question is whether the country would support the Congress even in that endeavor. The Nixon White House is confident that it would not.

TIMBER EXPORT ADMINISTRATION ACT OF 1973

Mr. PACKWOOD. Mr. President, during the next several weeks, the Congress will be considering legislation directed at restricting the level of exports of unprocessed softwood logs. This issue has been before the Congress, in one form or another, for many years. During the passage of time, many new Members have arrived to serve the Nation in the Senate and House of Representatives—Members who are seeking to better understand the elements and implications of this issue so that they might rationally pass judgment on the legislative proposals that will come before them.

I am convinced that only through a thorough knowledge of and appreciation for the facts in this issue will my colleagues join me in support of legislation, the Timber Export Administration Act of 1973 (S. 1033), that has been introduced by myself, Mr. CHURCH, Mr. CRANSTON, Mr. MCGOVERN, Mr. MONDALE, and Mr. TUNNEY.

Accordingly, I ask unanimous consent to have printed at the conclusion of my remarks an article written by Mr. Hal Mayhew, "Forest Products—Log Export Controversy." This article provides an

excellent review of the history of log exports—one of the best and most succinct I have seen during my long association with the issue.

Mr. Mayhew is a forest products analyst currently writing for Herron Northwest, formerly with Crow's Digest, both highly respected industry trade publications. Mr. Mayhew's writings have served as a focus for better understanding of the trends in and implications of those trends on the forest products industry.

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

FOREST PRODUCTS—LOG EXPORT CONTROVERSY

The export of 2.78 billion board feet of logs from the Pacific Coast states in 1972, mostly to Japan, has raised serious political and economic questions, and the situation will have long range effects on the forest products industry regardless of how it is resolved. The peak demand for log exports coincided with the peak demand from the housing market in the United States, and the result has been a period of rapidly excalating building material prices and acute shortages.

The total of 2.78 billion in exports compares with shipments of 1.98 billion in 1971 and 2.45 billion in 1970. The dip in 1971 is explained by a slight slowdown in the pace of homebuilding in Japan, plus the belief by Japanese importers that more attractive prices might be had by delaying purchases until 1972. Late in 1972, however, it became apparent that the Japanese had a greater need for logs, and the importers were prepared to pay prices far above the level which could be paid by West Coast lumber and plywood producers. The result was a general spiral in log costs, and as Phase II controls were lifted in mid-Jan., prices have advanced sharply in softwood lumber and plywood.

The pressure on the part of home builders, mill operators and other interests to restrict or prohibit export of this badly needed raw material is not a new development. In 1968 the problems caused by log exports resulted in the passage of the Morse Amendment of the Foreign Aid bill, restricting log exports from Forest Service and Bureau of Land Management timberlands to 350 million board feet per year. This failed to stem the tide, and in mid-1972, the Senate Banking Committee held additional hearings on the subject. At these latter hearings, John McGuire, chief of the U.S. Forest Service testified that the nation faced a critical shortage of softwood timber during the 1970's, and various legislators were convinced that action was needed. No action was taken during 1972 because Congress was to adjourn before further hearings could be completed. Now the problem has worsened, and legislators are being pressed to take action.

There is every reason to believe that housing starts in the United States will remain close to or above the 2 million annual level in the balance of the 70's. There is also evidence that Japanese housing starts can be maintained at levels in excess of 1.8 million per year, and that the Japanese are in a financial position to increase their purchases of American logs unless some restriction is forthcoming. This sets up a situation which clearly leaves the cost and supply situation in softwood lumber and plywood in the United States at the mercy of a foreign government. Despite the balance of payments situation and the long term trading relationship between the two countries, we consider this to be an unacceptable situation.

Among the alternatives which the policy makers face in this particular situation, none are completely acceptable to the various private and public interests involved. We list below some of the solutions put forth, and the ramifications they involve.

The status quo, or a continuation of the 350 million board foot limitation on exports of federal timber, will obviously not solve the problem. Exports have grown rapidly since the Morse Amendment became effective in 1968, and it is clearly evident that a great deal of substitution is taking place. "Substitution" involves the exporation of private timber, while substituting national forest timber for use in domestic processing of lumber or plywood. The practice has resulted in a generally higher level of stumpage prices on federal timber, and a rapid increase in open market prices for manufactured products.

A temporary embargo, which could be put into effect by presidential order or congressional action, would not appear to offer any real help. It is quite likely that any potential exporter of timber from private lands, or from State of Washington lands where exports are not restricted, would simply wait out the embargo rather than take lower prices from domestic processors. On the plus side, an embargo might be valuable to gain time for extensive hearings on the subject, which in turn could lead to a permanent action.

A limitation on exports from private lands has been suggested, and a figure of one billion feet per year was put forth as a starting point. This solution obviously would be an improvement over unlimited exports from private lands, even though it would require some policing and would create problems in selecting individual firms who would have the right to export the prescribed volume.

A complete ban on all log exports, with some provisions for phasing out contracts now in effect, would appear to offer the best solution compatible with the housing needs and the timber supply situation in this country. It would, over the short term, eliminate a profit area for a number of timber owners now engaged in log exporting. But over the long term it would make more timber available for domestic use, and would help meet the critical housing needs in this country.

British Columbia, a Province which has shown dramatic growth in the manufacture of forest products and pulp and paper over the past twenty years, does not permit log exports unless the prospective exporter has three refusals from domestic processors. The B.C. mills, as a result of this policy, have developed a substantial export business in sawn lumber to Japan and other countries, at the same time meeting the needs for building materials within Canada. There is every reason to believe that U.S. mills, under a log export bank, could cultivate a market for sawn lumber exports which would balance out periods of slack demand within this country.

The four Pacific Coast states (including Alaska) are currently reporting dissimilar distortions because of varying policies or situations with regard to log exports. Some would be affected more than others by a total ban on exports. Alaska currently does not permit the export of logs, except for a small volume of Alaska Yellow Cedar which has a limited domestic demand. The result has been the development of a fairly substantial market for sawn lumber exports, even though many of these exports involve cants or squares with a very minimum of domestic manufacture. A ban on exports from the adjacent 48 states would likely increase this export market for Alaskan products and lead to a greater development of the industry in that State.

Washington freely permits export of state-owned timber, and there is a large acreage of land in this state in private ownership or managed by the Bureau of Indian Affairs. Out of the total 2.78 billion feet exported in 1972, over 1.9 billion came from Washington state, a ratio which has been fairly constant during the big growth in log exports.

Even though officials of the State Public Lands Commission are sympathetic to exports, there has been a steady closure of lumber and plywood operations over the past five years, a situation which has added to the high unemployment rate in the area. A ban on log exports, while cutting into state revenue over the short term, could result in a big gain over the long term as lumber and plywood facilities return to full production and new units are built to process the available logs. There is strong evidence that much production capacity is idle at this time because domestic operators have not been able to compete successfully with Japanese buyers.

Log exports from Oregon approached 730 million board feet in 1972, an uncomfortable figure in view of the dwindling supply of timber on private lands in this state. This high total, coupled with the reduced offerings of Forest Service timber for budgetary and environmental reasons, has resulted in sharply higher costs which can be passed along to the ultimate buyer at this time but which could cause problems in the future.

California log exports are less than 100 million board feet per year, mostly because the large private timber owners in that state need all of their resources to operate their production units.

If there is no action taken on the subject of log exports, and this is entirely possible in view of the balance of payments situation, we would expect dramatic changes in the domestic industry over the next few years. There is already a scramble on the part of the more aggressive companies to install every available improvement in sawmill machinery, including high-strain bandsaws and computerized equipment to get the maximum overrun from the available logs. There is also a tendency to bid high on exportable timber, with the expectation that losses in domestic manufacture can be offset by profits made in selling a large portion of the logs directly to Japan.

If some restrctive action is taken on exports, we do not feel that the earnings potential of the larger, publicly held paper and timber companies would be seriously jeopardized. Logs now being sold for export could still be sold for domestic processing at prices well above historical levels. The action would also have a stabilizing effect on building materials prices, and would solve many of the cost-control problems which have plagued home builders in the past several years.

POOR VOTER TURNOUT SPURS REGISTRATION BILLS IN CONGRESS

Mr. McGEE. Mr. President, the Committee on Post Office and Civil Service, in concluding its hearings on voter registration legislation Friday last, heard the absence of 44 million eligible Americans from voter registration lists described as "an acknowledged national scandal."

Indeed, it is a scandal. So, too, is the fact that but 54.4 percent of eligible persons voted in the 1972 presidential election.

Soon, the committee expects to report to the Senate legislation which aims at correcting this scandalous situation—a situation which my distinguished colleague from Tennessee (Mr. BROCK) told us last week offers neither solace nor comfort to any party.

If we accept the notion that it is the right and duty of every citizen to participate in this Government of, by, and for the people, then we must see to it that

every citizen has the opportunity to do so.

Mr. President, the Sunday Times-Dispatch of Richmond, Va., carried an excellent report by Bill Connelly, a staff writer for Media General News Service. While it would be possible to take some exception to Mr. Connelly's report, it does represent a good, objective presentation of the issue and a summary of recent testimony before the committee. I commend it to the attention of Senators and ask unanimous consent that the article be printed in the RECORD.

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

POOR VOTER TURNOUT SPURS REGISTRATION BILLS IN CONGRESS

(By Bill Connelly)

WASHINGTON.—Stung by the news that only 56 percent of the nation's 139 million eligible voters bothered to cast ballots last Nov. 7, some members of Congress are seeking ways to encourage participation in national elections.

The voter turnout last fall was the worst in this country since 1948. Although 47 million Americans voted for President Nixon and 29 million voted for Sen. George S. McGovern, 62 million others of voting age did not vote.

Many theories are advanced to explain the poor turnout: Voters read the opinion polls and assumed Nixon was a shoo-in. Voters disliked both candidates. Voters were generally apathetic or alienated. Voters were scared away by complex ballots, new voting machines or long lines outside the polls.

But the fact is that most of the nonvoters were not even registered. A Census Bureau study showed that of those who were registered, 87 percent went to the polls.

Consequently, the current push in Congress is to find a simpler, more effective way of getting eligible citizens registered.

The measure with the broadest support right now is a bill introduced by Sen. Gale W. McGee, D-Wyo., to allow registration by post card for federal elections.

McGee's bill would create a voter registration administration within the Census Bureau. About 30 to 45 days before an election, the U.S. Postal Service would deliver registration cards to every household in the United States. The cards would be returned to local election officials, who would be responsible for verifying them. Stiff penalties are specified for fraud.

State election officials would be reimbursed for the cost of processing the cards. If a state chose to adopt the same system for its own elections, it could receive federal grants for up to 30 percent of processing costs, plus technical assistance.

The McGee bill was defeated in the Senate by four votes last year. But 12 senators were absent that day, including 10 who later said they supported the post card registration plan. McGee, chairman of the Post Office and Civil Service Committee, thinks the propects for Senate passage this year are excellent. Its prospects in the House are uncertain.

Among other things, the McGee bill now has the backing of more Republicans such as Bill Brock of Tennessee, who did not want to vote for it during the 1972 election year but is now enthusiastic about the idea.

Many senators have philosophical objections to a federal role in administration of elections, which has always been a state and local responsibility. Others complain that the post card system would invite widespread fraud and would be difficult to police.

The Justice Department came out against the bill Friday, complaining that post card registration could swell the rolls with ineligible people. The Census Bureau also has asked to be left out of the bill, for fear that administering voter registration would damage the agency's reputation for objectivity.

But McGee contends that there would be less opportunity for fraud. He is supported in that view by Randall B. Wood, former elections director for Texas, which has used a registration-by-mail system since 1941.

Wood said fraud usually results front conspiracy by election officials who can cheat under any registration system. But registration by mail can expand the electorate so much, he contends, that it is difficult for crooked officials to influence the outcome of an election.

"It is more difficult to influence the outcome with 200,000 people voting than with 10,000 people voting," he told a Senate committee.

Texas began registration by mail as a device to compel payment of poll taxes, which had to accompany the form. It continued the system after the poll tax was declared unconstitutional. Registration forms were printed in newspapers, distributed in supermarkets and drug stores.

North Dakota has no registration system at all—citizens simply sign affidavits at the polls—and officials there report no serious problem with fraud. Moreover, when the state discontinued registration in 1951 there was an increase of 14 per cent in voting.

"The real issue," said McGee, "is whether we are going to open our system or are going to continue to put roadblocks in the way of voters so that our participation rate is one of the most dismal in the world."

McGee noted that while only 56 per cent of eligible Americans voted in the recent election, Australia had 94 percent voting in its most recent election, West Germany 85 percent, England 80 per cent and Japan 74 per cent.

Of these countries, only the United States places the responsibility for registering on the citizen.

Elsewhere, it is the government's duty to see that eligible persons get on the rolls.

Richard M. Scammon, an elections analyst and former Census Bureau director, thinks automatic registration might substantially increase the voter turnout in this country. He supports the post card plan, but would prefer to require nothing more than that the citizen show up at the polls and sign a card.

Registration becomes a barrier to participation, in the view of critics, because many states or localities fail to provide convenient times and places for registering.

Civil rights leaders have asserted that some Southern communities, despite the Voting Rights Act of 1965, continue to discourage registration of blacks with complex or inconvenient registration systems.

Likewise, big-city political machines in the North have been accused of using registration and election procedures to limit the expansion of the electorate.

At McGee's hearings, few voices have been raised against the post card plan. But one elections expert, Richard Smolka of American University, contends that increased registration would not necessarily result in a larger turnout.

Smolka noted that the electorate already has been expanded enormously by adding 18- to 20-year-old voters, registering more blacks in the South (since the Voting Rights Act) and making other reforms—and yet the turnout percentage still is poor.

Nevertheless, McGee argues that the government should see that everyone eligible has the chance to vote—whether he does so or not. "I would like to see the day," McGee said, "when registering to vote is at least as important as paying your taxes."

A more limited registration proposal, introduced by Sen. Edward M. Kennedy, D-Mass., would provide grants to states that wanted to shift to computerized systems, try registration by mail or make other improvements. Participation by the states would be voluntary.

Bills have also been introduced to declare each biennial election day a national holiday to make it easier for workers to get to the polls.

Politically, some Republicans are wary of these registration bills. They reason that many nonvoting Americans are minority or lower-income citizens that probably would vote Democratic. But President Nixon's inroads with working class voters in 1972 have somewhat eased these fears.

SHIELD LAW FOR NEWSMEN UNNEEDED AND UNDESIRABLE

Mr. HELMS. Mr. President, much is being said these days—indeed, numerous proposals have been made—concerning the "need" for a so-called "shield law" for newsmen.

As one who has spent most of my life in the news business, I reject the notion that such protection for newsmen is either needed or desirable. In fact, Mr. President, the news people who now are crying for such special treatment would do well to ponder whether they are not asking for the handcuffs at some point down the road.

In any case, Mr. President, I simply cannot favor giving newsmen any right, protection, privilege, or immunity not enjoyed by all other citizens.

In that connection, I invite the attention of my colleagues to an excellent editorial published in the March 13 edition of the Salisbury, N.C. Evening Post, and I ask unanimous consent that this 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:

IMMUNITY? MAYBE BEST TO STAND PAT

Some members of the journalism profession are beginning to have second thoughts about the wisdom of legislation giving reporters immunity from being forced to reveal their news sources in a court of law.

Congress is currently considering such legislation. In fact, no less than 34 "shield" bills have been introduced in the House and Senate this session.

While many of the legislators—and all newsmen who have testified on the matter—favor blanket or absolute immunity, sentiment seems to be stronger for a law that would spell out a qualified or limited immunity to protect reporters from official "fishing expeditions" or the kind of legal harassment which has sent a number of them to jail in recent months.

Yet mindful of the proverbial camel which first stuck its nose into the tent, then took over the tent, some observers are asking whether there can really be such a thing as a little bit of government legislation in the area of freedom of the press.

"The more the newsmen are subject to legislative control, the more that will become regulatory control," Roger C. Cramton, assistant attorney general in the Justice Department, told a House Judiciary subcommittee.

"Step by step," he warned, "once you start down that road, what starts out as a privilege or favor to the news media ends up with some species of regulation."

Newsmen may view with a jaundiced eye such solicitude for themselves on the part of a government official. Much the same warning, however, has been voiced by at least one respected member of the fraternity, Vermont C. Royster, former editor of the Wall Street Journal.

The very word "immunity" leaves a bad taste in the mouths of many people, even though the law has always accorded such immunity to doctors, lawyers and clergy men.

But to compare reporters with these professionals is to get onto shaky ground, says Royster. Physicians, attorneys and priests don't write newspaper stories on the basis of what their clients tell them.

Even the idea of limited immunity may be a dubious one. To have any useful application, such a law would have to differentiate between those who are bona fide journalists and those who are not.

But how is this distinction to be made, and by whom? As of now, a journalist is anyone who says he is, and this may not be the worst kind of situation we could have.

For once we let the law decide WHO may write, we will have taken a very long step toward letting the law decide WHAT they may write.

Others will argue that the current wave of pressure against newsmen constitutes a clear and present danger to freedom of the press in America, and to the people's "right to know."

Nevertheless, the wisest course may be to rely on tradition rather than on new statutes, on increasing public understanding of the role and the needs of a free press in a free society rather than on a law or laws which would attempt to cover every conceivable circumstance.

Both freedom of the press and the profession of journalism have, after all, flourished for nearly 200 years under the First Amendment. And while this "blanket" may have had some worrisome holes punched in it lately and while it may seem a little threadbare and short in places, it still serves.

THE FARM SCENE

Mr. BIDEN. Mr. President, recently the Washington Star published a lucid and informative article on the subject of farm subsidies. I ask unanimous consent that the article, by Shirley Elder, be printed in the RECORD.

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

CONGRESS AND THE FARM MYTH

(By Shirley Elder)

There is a myth in this country that the farmer is a good and simple man, drawing strength and character from the soil, living modestly on windswept plains, blue denim, brown land. It is the American way.

But the simple man has gone the way of all yesterdays. Farming is business. Farmers are not satisfied to work for small reward. They insist they are entitled to make money, send their children to college—just like the folks in the cities who buy their products.

Farm income today is higher than it ever has been. And that's where the current controversy begins. Food costs also are higher than they ever have been.

When food prices go up, everyone is affected. An army of irate citizens—all who do the shopping and all those for whom they shop—are instantly mobilize in protest. The farmer takes the blame.

SUBSIDIES WELL KNOWN

Few consumers know anything about farm problems. They may be vaguely aware that farmers get subsidies and that some of these are outrageous, like the wealthy cotton growers who receive thousands of dollars not to grow cotton. And they know that no noticeable subsidies come to the average consumer not on welfare.

The result right now is an increasing demand for an end to subsidies and an idea, fostered by the Nixon administration, that farmers should take their chances in the rough and tumble of the marketplace.

Congress must face that issue this year. Farm legislation expires Dec. 31 and preliminary hearing already have begun in the Senate. Agricultural Chairman Herman Talmadge, D-Ga., complained:

"Our responsibility for drafting new farm legislation this year comes at what is perhaps the worst psychological and political moment."

Talmadge noted the high food prices, high farm income, and Nixon's pledge to "get government out of agriculture." The House, he said, is now clearly controlled by congressmen from the cities and suburbs, not the farms, making it harder than ever to win approval of a new farm bill.

HEAVY PRESSURE FELT

"In other words," he said, "the pressures on us here today to do nothing—to let existing legislation expire and to eliminate permanent legislation on the books—is extremely great.

"Frankly, given today's climate, this course would seem to be politically expedient, and it would certainly save this committee a great deal of time and energy."

Time and energy will, indeed, be needed. And there will be a new farm bill but the form it will take is still uncertain. However, Congress is unlikely to abandon farm supports altogether. They've been around too long. Many consider them essential to a balanced food economy.

Farm spokesmen point out that subsidies are not simply handouts. They are complex laws designed to accomplish two objectives:

To preserve as such as possible that American myth of the family farm, an image tied to strength and individualism, Mom and apple pie.

Price supports enable smaller farmers to compete with their larger neighbors. Cut loose to battle in the marketplace, many simply would fold.

Statistics show that one-third of America's 3.1 million farms are very small, with sales of less than $1,500 a year; 56 percent are below $5,000 and 72 percent are below $10,000. Talmadge sees the result as "vast human turmoil" and alarmingly expanded welfare rolls.

To assure a steady supply of food despite the unsteadiness that comes from long growing periods, quick harvests and uncertain weather. With payments to farmers who leave some land idle, the government can influence production. Without payments, farm spokesmen warn, there would be a production boom that would flood the market, reduce prices and cut farm incomes.

Subsidies affect only cotton, wheat and feed grains (corn, sorghum, oats and barley) and are limited to $55,000 per crop on each farm. But the payment ceiling, enacted in 1970, hasn't really worked as a limit. The largest farmers simply sub-divided their operations and shared ownership so that more than one person could collect $55,000.

FIGURE PARED SLIGHTLY

In 1970, when there was no ceiling, the 98 largest farm operations collected $25 million. In 1971, with the ceiling, they collected $32.5 million. Had each remained a single farm unit, the total would have dropped to $5.4 million.

Such statistics shock the non-farmer and increase the demands for reform. One thing certain to emerge from the current Congress is an effort to cut the limit even further, perhaps to $20,000.

As a result of these incentives to leave land idle, however, a total of 98 million acres that might otherwise be planted in wheat, cotton and feed grains will not be farmed this year.

Apparently as part of the Nixon administration hopes for expanded exports, restrictions on 15 million of those acres have been relaxed.

Nixon and his Agriculture secretary, Earl L. Butz, speak often of the virtues of a free market, which would mean an end to subsidies. Congress probably is not willing to go that far but might trim support payments.

SIMPLIEST IS COMPLICATED

The support system is complicated in its simplest form. Take wheat. On wheat used for food, the federal government guarantees the farmer 100 percent of parity—a theoretical measure of well-being based on prices received by farmers and prices they pay—about $4.50 a bushel. If wheat is selling for $1.25, for instance, the farmer then would collect another $2.25 from the government. Of that, 75 cents comes from the processors.

Nixon has made no specific legislative proposal to Congress, and probably won't He has set out general philosophical guidelines, however, that make his position perfectly clear. Congress has to work from there.

The basic question becomes: Do you want to protect the small farmer? If so, he needs help. If not, abandon the old myths and face the reality that agriculture, like the manufacture of automobiles, will be consolidated into the hands of big business.

And if that happens, the small farmer will be adrift unless—and until—there are jobs available. He will go to the cities and, as Talmadge warns, onto the welfare rolls if there are no jobs.

Congress took a look at the problem last year and passed a Rural Development Act designed to pump money into rural communities in dozens of different projects to improve living conditions and provide work. But that law is barely under way, already underfinanced and only partially put into effect by the Nixon administration.

BENJAMIN A. TILFORD

Mr. TAFT. Mr. President, recently a great and warm friend and a leading citizen of southwest Ohio died. He left a host of friends, followers, and admirers. It is a great personal loss to me for he was a man of great wisdom on whose advice I often relied.

The eloquent address at his funeral was delivered by the distinguished Rev. Wilbur A. Page and tells beautifully of the virtues of this truly fine man. I ask that the eulogy be printed at this point in the RECORD.

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

EULOGY OF BENJAMIN A. TILFORD

To all who are here mourning the passing of our esteemed brother, Benjamin A. Tilford, it is a profound privilege for me to call him my friend. I now think of the words of Solomon the wisest man of all time, found in the ninth chapter of Ecclesiastes and the tenth verse, "Whatever thy hand findeth to do, do it with all thy might; for there is no work, nor device, nor knowledge, nor wisdom, in the grave, whither thou goest".

In the light of the text, I would call Benjamin Tilford "A Wise Builder and Workman". Those who knew him, recognize by his labor, that he was indeed a wise builder.

He begged no man to love him, or to give him that he did not earn. He endeavored to so live that he could command the respect of all men. He believed in leaping in the dark, taking a risk, if it meant going forward.

He was not afraid to launch out into the deep and let down his net. Many could be economically secure, but they allowed that terrible monster called doubt and fear to betray them and they stood still. They spent their years waiting for luck to come their way. It is the duty of every man to exert all his powers and bring this to pass, not only for himself but for others. Some believe in the false doctrine, "If it is for me I will get it, if not I won't". This idea was far from Ben's thinking. His record as a wise builder and workman speaks for itself. He believed if a man never started he would never got anywhere.

Ben worked while it was day. He did not wait for the evening shadows of life to fall before he started to work and to build. Ben retired in honor and in security. He enjoyed life to the end and served his fellowman. Ben was known for his uprightness in dealing with men in business affairs. He had what it took to make a man whole. There was not a deceitful bone in Ben's body. If any man said anything he did not like, he would surely tell him about it face to face in no uncertain terms. Rank, position, nationality learned or unlearned, rich or poor, he feared none. Men with such noble traits as this can be called honorable men, trusted men, men with strength of character.

Ben was a man that would go an extra mile to help if need be. Such men are few and he was among the few. No man need not ever guess where Ben stood on any issue. He was not a pussyfoot, neither the kind that would throw a rock and hide his hand. "Esse Quam Videri" was his life's motto. He lived up to it to the square inch.

Ben was not a wanderer. He believed in the doctrine that the late Dr. Booker T. Washington advocated. "Let down your bucket where you are".

Ben moved into Kennedy Heights many years ago. Then a few country homes, cows in the meadow, pigs in the pen, chickens in the barnyard, vast fields growing up in weeds. Some were being farmed. Ben had a vision and believed that someday this would be a choice neighborhood; the empty fields would have houses on them; the small paths walking would be turned into streets. He stayed in Kennedy Heights, exercised patience, prepared himself by study and hard work, and when the clock of time struck the hour to build up Kennedy Heights Ben was ready. Today it is one of the wealthiest communities in our city. Many who never dreamed of living in a new house just built for them, the wisdom of Ben made it possible. Yes, Ben was a wise Builder and Workman.

Ben had Civic pride, race pride, patriotic pride. He loved his country and his city. He supported every organization of which he was a member. He was the first of our group to serve on the Board of Directors of the Cincinnati Zoo. He was not a parasite. He paid his full fare and met his obligations. What others were asked to give he gave.

Politically, he was a Republican and did not conceal it. He was on some of the important Committees and all held him in high esteem. He did not criticize any belong to another Party, but never allowed any to fault him for being a Republican. He worked untiringly for the Party, and once a year would give a lawn party for the candidates.

We served together on the Trustee Board of Crawford's Home. The city purchased our home. We only had one resident at the time. We decided to close the Homes, invest the money and wait for something worthwhile to come to pass and then again move forward. Ben was a good business man and he knew the fundamentals of sound business methods. He believed, "That all things be done decently and in order". Many disliked him for this strict rule he insisted on being in force. Some enterprises might be operating today as well as individuals, if they would have given a listening ear to his wise council. He was a fearless man. He believed his beliefs and doubted his doubts. He was like Cicero who said, "I care not what people say about me today, but I do care what they say about me six hundred years from today". This is the platform that Ben stood upon.

Ben was a good husband and good provider for his family. He loved home life. He always had an open door to his friends to come in and chat together. He was a good father to his children and grandchildren. He and his son Arnold, I would liken unto David and Solomon. He gave Arnold a good start and I am proud to say he has profited by his father's wise counsel. Now Arnold since Pop has fallen asleep I say unto you in military language, "Carry on", until your day is done. Children, he taught you to stand upon your feet and be right. Today all you children and grandchildren can rise up and call him "Blessed". I remember when his wife's mother came to live with him and Gertrude. He became a real son to her, and ably helped Gertrude in every way to make her happy and comfortable. This was the christian, human touch he possessed. He will in no wise lose his reward.

I remember when he was instrumental, through the kindness of the Honorable Chase M. Davies, in securing an organ for the church. I was present at the dedication. As an appreciation for such kindness the church has named their lower level The Chase M. Davies Social Hall. Ben was in the height of his glory that day. He loved to do such things not for himself but for others. His influence was far and wide.

I would liken him and Gertrude, his beloved companion, as to Acquilla and Priscilla. They were bound close together as one. They both understood each other. Now the wise workman and builder has lived his three score and ten years, and a few more, serving his day and generation, fallen asleep and has been gathered to his fathers.

I say of Ben, the man, the christian, the wise builder and workman, Ben the business man, Ben the civic minded citizen, Ben the father, the grandfather, the beloved husband and friend to all who knew him. All nature can rise up and see Benjamin A. Tilford was a man.

Peace be to his ashes and rest to his weary soul.

THE ROLE OF PRESIDENT THIEU IN INDOCHINA

Mr. McGEE. Mr. President, in last Friday's March 16, edition of The Baltimore Evening Sun, there appeared a column which raises a very significant point regarding the role of President Thieu as a potential stabilizing force in Indochina.

The editorial writer noted that:

The Vietnam cease-fire was designed, on the American side at least, not so much to end the North-South struggle as to transfer the strugglers from the military arena to the politician, then to let the Vietnamese thrash out things for themselves.

As the editorial writer also notes, President Thieu has emerged as a very capable politician and, given the chance Washington wants to preserve for him, "may yet be the one to steer his country out of its long and bloody morass."

I find myself in full agreement with the conclusions of the column. For us to precipitously inject an ingredient of uncertainty into a very tenuous set of circumstances could very well lead to disastrous consequences not only for the United States, but also for the people of Indochina as well. What stability there is in the present situation must be given a chance to survive; and by all signs, the key to stability in South Vietnam is President Thieu.

I ask unanimous consent that the column be printed in the RECORD.

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

NOT LIGHTLY

The Vietnam cease-fire was designed, on the American side at least, not so much to end the North-South struggle as to transfer the struggle from the military arena to the political, then to let the Vietnamese thrash out things for themselves. This is easier agreed-to than done among peoples trained up to war instead of democracy, and so the present moment marks a difficult, perhaps transitional stage. Armed conflict mingles with political maneuver; each side loudly accuses the other of breaking the cease-fire; both are probably cheating a little or a lot. Up to now Washington has tended to the complacent view that all this will pass and that in the end the South Vietnamese will get down to settling the question of who runs the country in the good old American—that is, democratic—way. That view may still be valid, but yesterday President Nixon with studied casualness tossed in a new and distinctly chilling note.

He suggested at a news conference that Hanoi "should not lightly disregard . . . expressions of concern, when they are made with regard to a violation." And the possible violation, he made clear, arose from increasing reports that North Vietnamese are pouring men and supplies southward far beyond the limits established at Paris. The presidential warning was unmistakable: get back in line, he implied, else risk an American rejoinder on the order of revived B–52 raids, mining of Haiphong harbor or other strokes reminiscent of "my actions over the past four years."

Our guess is that Washington and Hanoi have now entered a war of nerves or, more specifically, of nerve vs. nerve. Hanoi pushes its military prongs farther than it should, uneasily aware that the American retaliatory power on hand is still formidable. Washington warns that it may resume operations, yet is uncomfortable in the knowledge that not all American prisoners are yet free of the Communist grip, also that most people here want the American part of the war ended. Neither side stands on the firmest ground, and the ironical result may be that the Thieu regime in Saigon emerges as a stabilizing force.

President Thieu has proved himself a hard-handed but durable politician. He commands an army said to be increasingly effective, and he is using it to consolidate political control of the mass of South Vietnamese villagers. Thieu is no longer the bad joke he once was and, given the chance Washington wants to preserve for him, may yet be the one to steer his country out of its long and bloody morass.

IT IS TIME FOR CLOSE LOOK AT SOME FARMERS' "FRIENDS"

Mr. HELMS. Mr. President, I am not one normally to acknowledge that I am

naive, but I do confess a certain degree of mystification at the conduct of some who today pretend, often loudly and with such verbosity, that they are "the farmers' friends."

In my judgment, Mr. President, many who are engaging in such constant self-serving declarations are merely delaying the process of rendering legitimate assistance to the farmers. In all candor, there seems to be more interest in a political confrontation to hamstring the President than in establishing a common ground of cooperation and understanding between the executive and the legislative.

Let us, for example, consider the so-called REAP program—the rural environmental assistance program. The Administration has acknowledged that there are some worthy and desirable features of this program. Secretary Butz has made clear that he desires to preserve those features which are needed. But, speaking for the administration, he has also made clear that the existing program also contains outmoded and inequitable aspects which should not be continued as a burden upon the taxpayers.

Efforts were made recently in this Chamber, Mr. President, to bring the REAP into proper perspective. The distinguished senior Senator from Oklahoma (Mr. BELLMON), for example, offered an amendment which, had it been accepted by the Senate, would have made the REAP program palatable insofar as the junior Senator from North Carolina is concerned. The Senator's wise amendment was defeated, and I could not in good conscience support the bill when it was passed by the Senate.

So the political confrontation continues—and so does the stalemate. This is happening up and down the line. The nagging question persists: Is the Congress more interested in a political confrontation than in helping the people of America?

I invite Senators' attention to an article by Bill Anderson, published recently in the Chicago Tribune, and I ask unanimous consent that it be printed at this point in the RECORD.

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

U.S. BOUNTY AIDS 252 "RICH" FARMS

(By Bill Anderson)

WARRENTON, VA.—This is where people come for the Gold Cup, an annual horse race on a huge estate in Fauquier County, a place near the Appalachian Trail and National Forests set in the rolling hills of the Blue Ridge Mountains.

There are about 609 farms in this large county, and most of them are larger than Chicago's Loop. The air is clean and fresh, and there is nothing here that remotely resembles poverty or the old dust bowl farming portrayed in "The Grapes of Wrath."

Yet, there are 252 farms in Fauquier County that will be greener this spring because the federal government spent $65,000 on them last year in a program that grew out of the plight of farmers during the dust bowl days. The federal dollars were part of a spending program of the Rural Environmental Assistance Program (REAP), currently the object of what amounts to a pilot fight between the executive and the legislative branches of the government.

The father of REAP was born in 1936 as a conservation program funded at $374 million. In the early days, the money went for soil saving projects of small farmers, water development, and tree planting. There are literally thousands of acres of land in the United States that are green today as a result of the program.

By 1944, as times changed, the program became strictly conservation. Spending continued at the rate of about 200 million dollars a year until 1970, when the executive branch began to run into budget problems. On Dec. 22, 1972, the Nixon administration terminated the funding (except for prior commitments) after it dropped to the $140 million level.

In essence, a large number of congressmen said: "You can't do this to us." The Washington Post, a newspaper highly critical of the Nixon administration, has given extensive coverage to the REAP issue. One story was headlined, "As Ye Sow, So Shall Ye REAP."

Since Fauquier County is only an hour and a half by auto from Washington, the Post has considerable influence in the county—as well as among prominent, politically-connected residents who live here. About 50 of the 252 farms receiving money from REAP last year are owned by people who live in Washington.

One of these places is owned by Mrs. Joseph W. Barr, wife of the former secretary of the treasury. Since 1968, Mrs. Barr has received $1,408 from the federal treasury to spend on her estate. The money spent on the 364-acre holding was for fertilizing, applying lime, and planting blue grass.

Mrs. Katharine Graham, publisher of the Post and owner of a 347-acre estate near Rectortown, has also been a federal recipient. Records provided to Jim Coates, a reporter for this column, showed that Mrs. Graham received $976 since 1968, a figure somewhat less than the average payment.

Mrs. Francis Gilbert, executive director of the Agriculture Stabilization and Conservation Service, which administers the program on a local level, said that the money for Mrs. Graham's estate was used for a variety of projects. In 1968, there was a federal allotment of $158 for the Graham estate for vegetation cover on 18 acres. Other money over the years went for thistle spraying and additional ground-covering projects.

"Whether you're rich or poor," Mrs. Gilbert said, "you'll still get rained on—and, no matter how prominent you are, your soil will wash away if there is no grass." The local director said the establishment of permanent vegetative cover was one of the most popular in the county. All together, REAP offers 16 grant categories ranging from animal-waste storage and diversion facilities to strip-cropping—a term used in connection with land contouring to avoid erosion.

Mrs. Gilbert explained, as did officials of REAP, that the programs are traditionally handled at the local levels in order to insure maximum benefits. The federal tax dollars are distributed first to the states and then down to the county levels. At the county level, three farmers are elected by the other farmers of the country to make the final disposition of the money.

The largest amount which was spent on a farm in Fauquier County last year was about $2,500. The average amount here last year was $260, slightly lower than the national average per grant. Next year there will be no money unless Congress is successful in overriding the administration's cutback.

THE THREAT TO FAMILY TYPE AGRICULTURE

Mr. McGOVERN. Mr. President, the recommendations of this administration for new farm legislation which the Congress will consider this year very clearly would threaten the existence of the family farm as we know it especially in my State.

The administration's plan to terminate farm price stabilization programs and change the procedure for determining crop acreage bases would eliminate thousands of small farms.

The Senator from Georgia (Mr. TALMADGE), chairman of the Committee on Agriculure and Forestry, has shared with the Senate a copy of the incisive analysis presented to the committee by Dr. Walter W. Wilcox of the Library of Congress, which details the effects of the administration's recommendations.

The Aberdeen American-News in South Dakota published a commendable editorial on March 10, 1973, which properly expresses concern over the administration's plan to throw all farmers, large and small, on the mercy of a market that is dominated by powerful economic interests which are frequently at variance with the needs of rural America. Mr. President, I ask unanimous consent that the editorial be placed in the RECORD.

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

MARGINAL FARM IS THREATENED

Current discussions about farm legislation and suggested changes are observed with interest by South Dakotans well aware of the complexities of agriculture.

There are few problems more complicated than those dealing with farming and complicated problems are not susceptible to simple solutions.

In neighboring Minnesota, the St. Paul Pioneer Press has thoughtfully analyzed some of the problems begging for solution.

It observes one of the problems with the Nixon administration's plan to phase out some major farm subsidies is that it does not give sufficient consideration to the differences that exist on American farms.

The three basic kinds of farms now drawing subsidies it points out, are large corporation farms, economically successful, family farms and marginal family farms. The Pioneer Press editor suggests "The corporation farms should not be entitled to subsidies which were designed originally to help the family farmer. Many successful family farms are sufficiently solvent to remain profitable in the event subsidy programs are reduced. It is the marginal family farm that stands to be hurt by the phase-out."

A study by Dr. Walter Wilcox, a veteran Library of Congress farm economist, prepared for the Senate Agriculture Committee is cited. It substantiates the Nixon program's threat to the small family farm. The question Congress must ask as it seeks to write a farm bill in 1973 is whether the small, marginal family farm is worth fighting the White House to preserve, the St. Paul editor says.

"It, in his opinion, is really a social rather than an agricultural problem. If the small farms that cannot survive without a subsidy program are cut off from government funds, the people living there will have no choice but to sell out and find other employment. Most often this means moving to the city and looking for work in an already crowded labor market. It means a new and often unsatisfactory life style for the farmer and his family. All too frequently it means an addition to the welfare rolls."

The St. Paul editor concludes: "Depending upon the complications that arise from displacement, it may be cheaper to subsidize the small farmer than to uproot him. Cer-

tainly he and his family will be happier if they can stay on the farm.

"What is needed is a farm program that takes these differences into consideration. The same set of regulations that works for the corporate farm won't be exactly right for the thriving family farm and certainly won't apply to the small, marginal family operation. The present subsidy program, devised during an agricultural crisis, and patched and jury-rigged ever since, needs an overhaul. But Congress and the administration should be careful not to kill the patients with the cure."

IN MEMORY OF MRS. ANNIE HOWELL KING OF AIKEN, S.C.

Mr. THURMOND. Mr. President, South Carolina and the Nation lost a dedicated citizen last January 27 when Mrs. Annie Howell King of Aiken, S.C., died following a brief illness.

This graceful lady was loved and respected by everyone who knew her. In each town there are a handful of people who excel in their devotion and service to their church, family, and friends. Mrs. King was just such an exceptional person.

She and her husband came to Aiken in 1934 to operate the Aiken Standard and Review newspaper. Following his death in 1951, she became the sole owner of the newspaper.

In the next few years Aiken grew rapidly and with the help of her two brothers, Albert T. Howell, Jr. and William G. Howell, she transformed the newspaper from a weekly to a daily.

Throughout this time of hard work Mrs. King never let anything interfere with her duties at the First Baptist Church of Aiken. A leader and officer in both the Baptist Women of Aiken County and the statewide Baptist Women's Missionary Union, she also found time to minister to the needs of those in the Aiken community who needed her help.

Through her thoughtfulness and generosity many lives were touched and strengthened. This deep desire to help others was also manifested in the operation of her newspaper where she zealously guarded an individual's right to privacy and fair play. The editorial columns of her newspaper were always open to differing opinion and she insisted upon objectivity in the news columns.

The honors and wide recognition which came to Mrs. King through the years were truly deserved. Twice she served as president of the Woman's Division of the South Carolina Press Association and was accorded the unusual honor of being named the South Carolina Press Woman of the Year on two different occasions, 1966 and 1969.

Mrs. King was also named woman of the year in Aiken on two different occations, 1957 and 1965. In 1969 she was presented the key to the city.

In civic affairs her contributions were numerous. She served as president of the Aiken Pilot Club, the Aiken Business and Professional Women's Club, and the Aiken County American Legion Auxiliary. Mrs. King also served as director of many groups to include the Salvation Army, United Fund, and Aiken Chamber of Commerce.

Mr. President, the admiration in which Mrs. King was held was beautifully expressed by her close friend, Mrs. W. L. Kinney, Sr., of Bennettsville, S.C., in a memorial before the South Carolina Press Association. Mrs. Kinney, in her tribute, succinctly summed up her remarks by citing Proverbs: 31–25 "Strength and honor are her clothing."

Mr. President, I ask unanimous consent that the entire tribute by Mrs. Kinney titled, "Memorial to Mrs. Annie H. King" be printed in the RECORD at the conclusion of my remarks.

Also, I ask unanimous consent that three other articles be printed in the RECORD at the conclusion of my remarks. These articles include an editorial entitled, "Annie Howell King" published in the Aiken Standard, Aiken, S.C., on January 29, 1973; a news article entitled, "Mrs. Annie H. King, Newspaper Woman, Aiken Civic Leader Dies" printed in the Aiken Standard on January 29, 1973 and an editorial entitled, "Mrs. Annie H. King" published in the Augusta Chronicle, Augusta, Ga., on January 30, 1973.

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

MEMORIAL TO MRS. ANNIE H. KING

(By Mrs. W. L. Kinney)

Mrs. Annie Howell King, 79, widow of Benjamin Josey King, died January 27, 1973 in Aiken County Hospital following a month's illness. Funeral services were held Sunday at 4 p.m. at First Baptist Church and burial followed in Bethany Cemetery.

Mrs. King was born in Southport, N.C., a daughter of the late Rev. Albert T. and Elizabeth Dasher Howell. She attended Coker College and graduated from Chowan College, N.C.

She went to Aiken in 1934 with her husband and together they operated the Aiken Standard and Review. Following his death in 1951, she was sole owner and publisher until 1968 when she sold the paper.

Few not actively associated with newspaper work can fully appreciate the accomplishments of this determined and compassionate woman during her management of the newspaper.

As Aiken mushroomed from winter resort village to boom town to thriving metropolis, her newspaper was transformed within a brief period from weekly to tri-weekly to daily.

Throughout the period of her management, she maintained a firm but gentle hand, performing with seeming ease a job that is a challenge to any professional person.

As a daily, the Aiken Standard and Review was a morning paper and it was not uncommon to find Mrs. King tirelessly "putting the paper to bed" in the early morning hours.

She was a pillar of strength to her family and friends and to several organizations to which she generously apportioned her time and talents.

Her steadfast devotion to her church is commemorated by the Annie H. King Sunday School class at First Baptist Church. She was long active in the Baptist Women's Missionary Union and served as vice-president of the state organization and past president of the Baptist Women of Aiken County.

Mrs. King was co-organizer of the Woman's Division of the S.C. Press Association and served as its president for two terms.

The S.C. Press Association named her Woman of the Year in 1966 and in 1969, she was recommended for National Press Woman of the Year. She was invited with twenty other publishers to have lunch with the late President John F. Kennedy at the White House.

Mrs. King was active in civic affairs and was a charter member and past president of the Aiken Pilot Club. She was a member of the Aiken Business and Professional Women's Club and named Woman of the Year by the club.

In 1965 Mrs. King was cited as Aiken Woman of the Year by the Chamber of Commerce and in 1969 was presented the Key to the City of Aiken.

She was a member and past president of the American Legion Auxiliary.

Few women have made such a contribution to journalism in South Carolina.

The S.C. Press has lost a devoted friend and the state a Christian woman of distinction.

Proverbs: 31–25.

"Strength and honour are her clothing."

[From the Aiken (S.C.) Standard, Jan. 29, 1973]

MRS. KING, NEWSPAPERWOMAN, AIKEN CIVIC LEADER, DIES

Mrs. B. J. (Annie Howell) King, of 537 Palmetto Lane, S.W., Aiken, owner of the Aiken Standard and Review from 1934 until 1968, died Saturday at the Aiken County Hospital after a four-week illness.

Funeral services were held yesterday at 4 p.m. at the First Baptist Church with the Rev. Dr. R. L. Cate officiating, assisted by the Rev. Dr. A. D. Howard and the Rev. John B. McCullough. Burial was in Bethany Cemetery.

Woman of the Year, Business Woman of the Year, Career Press Woman of the Year, and Two Thousand Women of Achievement were just a few awards the Southport, N.C., native earned during her life.

But in her own admission Mrs. King said she was proudest of the award presented to her by the City of Aiken in 1968—key to the city and a plaque.

She was the former Annie Howell, a daughter of the late Rev. Albert T. Howell, Sr., and Elizabeth Dosher Howell.

Mrs. King attended Coker College and was a graduate of Chowan College. She was married to Benjamin Josey King Oct. 11, 1920.

Mr. and Mrs. King came to Aiken in 1934 and were co-owners of the Aiken Standard and Review from 1934–51, becoming sole owner from 1951–68. At the time of her death she was co-owner with her brother, W. G. Howell, of King Printing Company.

She was an organizer of the women's division of the S.C. Press Association, serving actively as its president from 1948–1953.

Civic-minded, she lent her organizational talents to such clubs as the Aiken Pilot Club of which she was a charter member and past president and the Business and Professional Women's Club.

In a life devoted to civic service, offices Mrs. King held included being named twice president of the Women's Division of the S.C. Press Association, which she helped to form; past vice-president of Baptist Women's Missionary Union of South Carolina, past president of Baptist Women of Aiken County, and past president of the American Legion Auxiliary.

She was cited in 1945 as Aiken Woman of the year; in 1956 as S.C. Press Association Woman of the Year and in 1969 was recommended for National Press Woman of the Year by the S.C. Press Association, and invited with 30 other publishers to have lunch with the late President John F. Kennedy.

She was a member of the First Baptist Church, teacher of the Annie H. King Sunday School Class since 1935 and past president of the Pauline White, W.M.C., past president of the Aiken Assoc., W.M.U. and regional vice-president of the S.C. W.M.U.

Surviving are one foster daughter, Mrs. R. Thomas Adams, Jr., Aiken; two brothers, Albert T. Howell Jr., Ft. Pierce, Fla., Wilbur Gay Howell, Aiken; three nieces, Mrs. T. B. Willis, Wagener, Mrs. George Mehallis, Coral Gables, Fla., Mrs. James O. Hawkins, Aiken, five

nephews, Wilbur Gay Howell Jr., Aiken, James K. Howell, Ft. Pierce, Carl Gaddy Jr., Raleigh, N.C., Robert Sidney Gaddy, Micro, N.C., Richard H. Gaddy, Grifton, N.C.; and six great nephews.

Pallbearers were William Kenny Jr., Ted Willis, Tom Willis, Tim Willis, George A. Townes III, Eugene K. Kneece Jr.

Honorary pallbearers were past and present deacons of the First Baptist Church, Sen. Strom Thurmond, Congressman W. J. Bryan Dorn, Edward H. Kenney, Mayor H. O. Weeks, Frank T. Galardi, G. O. Robinson, L. A. Garvin Sr., Dr. W. D. McNair Jr., Dr. J. E. Rountree, Dr. D. B. Pridges, John Busch, J. E. Ratfield, W. L. Kenny Sr., W. T. Slaughter, Dan Hamman, Victor Johnson and Dr. James Simons.

[From the Aiken (S.C.) Standard, Jan. 29, 1973]

ANNIE HOWELL KING

A host of Aiken County friends today mourns Annie Howell King, who for many years guided the destiny of this newspaper.

She came to Aiken in 1934 with her husband, Benjamin J. King, and together they operated the Aiken Standard and Review. Following his death in 1951, she was the sole owner and publisher until 1968, when she sold it to the present owners.

Few not actively associated with newspaper work can fully appreciate the accomplishments of this determined and compassionate woman during her management of the newspaper. As Aiken mushroomed from winter resort village to boom town to thriving metropolis, her newspaper was transformed within a brief period from weekly to tri-weekly to daily.

Throughout the period of her management, she maintained a firm but gentle hand, performing with seeming ease a job that is a challenge to any professional. As a daily, the Aiken Standard and Review was a morning newspaper, and it was not uncommon to find Mrs. King tirelessly "putting the paper to bed" in the early morning hours.

She was a pillar of strength to her family and to the several organizations to which she generously apportioned her time and talents. Her steadfast devotion to her church is commemorated by the Annie H. King Sunday School Class at the First Baptist Church. She held at one time or another a number of other responsibilities. She was long active in the Baptist Woman's Missionary Union, and served a term as vice president of the state organization. She also taught a Sunday School class for many years at the Aiken Nursing Home.

Mrs. King was a charter member and former president of the Aiken Pilot Club, and a member of the Aiken Business and Professional Women.

The South Carolina Press Association, in which she was active for many years, named her Woman of the Year in 1966. She was similarly honored by the Aiken Chamber of Commerce and the Aiken Business and Professional Women. She was presented the key to the city in 1969.

Few women have made such a contribution to journalism in South Carolina. Aiken County has lost a devoted friend.

[From the Augusta (Ga.) Chronicle, Jan. 30, 1973]

MRS. ANNIE H. KING

Few women have made the contributions to their communities that Mrs. Anne Howell King has made to Aiken and Aiken County. Yet, in her death, which occurred Saturday, not alone Aiken, but South Carolina as a whole is the poorer.

For 35 years, many of them with her late husband, Benjamin Josey King, this dynamic woman had published the Aiken Standard and Review, initially as a weekly newspaper and, from shortly after construction of the Savannah River Plant of the Atomic Energy Commission in the early Fifties, as a daily.

She was active in its management and operation until its sale approximately four years ago.

From the time, in 1934, when she and her husband purchased the Standard and Review, until her death, Mrs. King had devoted much of her time and virtually all of her energy toward local community projects and statewide journalistic efforts. She was an organizer of the women's division of the South Carolina Press Association and served as its president from 1948 through 1953. In 1966 she was selected South Carolina Press Association Woman of the Year and, in 1969, recommended by that organization for the title of National Press Woman of the Year.

Meanwhile, she found time for her beloved Aiken to help organize the Aiken Pilot Club and serve as its president, to work tirelessly as a member of the Business and Professional Women's Club and to serve those organizations, her church and the community so ably and unflaggingly that, in 1966, she was named Aiken Woman of the Year, B. & P.W. Woman of the Year, and was presented, in 1969, with the Key to the City of Aiken.

Throughout her journalism career, Mrs. King was, for us, a stout, but completely fair, competitor, a newspaper woman whom we could both admire and respect.

By her ability and her zeal, she has left a lasting imprint on her city and her state. We are sure both can say that it was good she came their way.

BLACKS AND THE NIXON ADMINISTRATION

Mr. HUMPHREY. Mr. President, on March 16, 1973, the executive director of the National Urban League, Vernon E. Jordan, Jr., delivered an excellent address at the National Press Club entitled "Blacks and the Nixon Administration: The Next 4 Years," this address spells out in clear terms the serious impact of budget cutbacks and program terminations planned by the Nixon administration, upon millions of Americans, white and black, who will see their recently awakened hopes in the future become lost in a fog of administration rhetoric.

I believe the importance of this address merits having it brought to public attention. Therefore, Mr. President, I ask unanimous consent that Mr. Jordan's remarks be printed at this point in the RECORD.

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

BLACKS AND THE NIXON ADMINISTRATION: THE NEXT 4 YEARS

In his Budget Message to the Congress, the President once again called for "a new American Revolution to return power to the people." But the Message itself, and the provisions of a federal budget that hacks away at social spending with ruthless intensity, can only be seen as the first shots of a counter-revolution designed to destroy the social reforms of the 1960s.

Indeed, the proposed budget is the blueprint for the conversion of a national policy of "benign neglect" into a policy of active hostility to the hopes, dreams and aspirations of black Americans.

I do not believe this policy is intentional, nor do I believe that it is the product of conscious, anti-black, anti-poor reasoning. Rather it is the by-product of a view of society and of the proper role of government that is incompatible with the implementation of the precious rights won by minorities in recent years. The yawning gap between the philosophy of decentralized government marked by a passive domestic role for the federal Administration, and the effects of such a system on poor people and minorities vividly illustrates how honorable intentions can have disastrous results.

I am reminded of the famous lines by T. S. Eliot: "Between the idea and the reality/ Between the motion and the act/Falls the shadow." Today that shadow falls on black Americans, minorities, and on the overwhelming numbers of poor people who are white. It is they who are being asked to carry the burdens imposed by the impending massive federal withdrawal from moral and programmatic leadership in the domestic arena. The shadow that falls upon them is deep and its darkness spreads a blight across our land.

The Administration's domestic policy, as revealed in its budget proposals and in a flurry of public statements, encompasses on the one hand, sharp cuts in spending on social services, and on the other, a massive shift in resources and responsibility from Washington to local governments. These are the two prongs of a pincer movement that entraps millions of Americans.

A brief examination of just a few of the federal actions both proposed and already taken, are enough to indicate that urban America is well on the way to becoming a free fire zone doomed to destruction by the very forces it looks to for salvation.

In employment, the Emergency Employment Act will be phased out, ending public service jobs for about 150,000 state and city employees, some forty percent of whom had been classified as disadvantaged. Job-creation and training programs already crippled by the refusal to spend appropriated funds, will be cut sharply. A wide variety of federally-backed summer and youth employment programs will be dropped, and special programs for high unemployment areas will be eliminated.

In housing, a freeze has been imposed on federally-subsidized housing affecting hundreds of thousands of low-income families and robbing construction workers of jobs.

In education, federal programs to provide compensatory educational services to disadvantaged children, and important vocational education programs will be dismantled, while day care student loans, special school milk programs and aid to libraries will be eliminated or reduced to a small fraction of their former size.

In health, 23 million aged and handicapped people will have an extra billion dollars torn from them in higher Medicare charges and lessened coverage, while funds for the successful community mental health centers and for new hospitals will be eliminated.

In addition to this listing of horror stories, there are further atrocities—the dismantling of the Office of Economic Opportunity and abolition of its over 900 community action programs; the end of the Model Cities program, and the effective end of urban renewal and a host of other federal programs of community development.

A number of arguments have been advanced to justify the far-reaching changes the new American counter-revolution seeks to establish. Taken together, they recall Horace Walpole's comment about the world: that it "is a comedy to those that think, a tragedy to those that feel."

It is said, for example, that the budget cuts are necessary to avoid new taxes and to control inflation. This neatly avoids mention of the imposition of a sharply increased social security payroll tax that falls disproportionately on the same low-income families

that will be hurt most by social service cutbacks. I accept the need for a ceiling on federal expenditures, but I cannot accept the faulty priorities that raise military expenditures by just under five billion dollars while slicing funds for the poor and the cities. The cost of one Trident Submarine would pay for the public service employment program. The requested increase in funds for the F–15 fighter is about equal to the amounts cut from manpower training funds. Federal disinvestment in human resources reflects an irrational choice of priorities.

Another reason for the cuts is the overly-optimistic view that many of the federal programs are no longer needed. The President himself seemed to be making this point in his Human Resources Message when he said: "By almost any measure life is better for Americans in 1973 than ever before in our history, and better than in any other society of the world in this or any earlier age." And the theme was repeated in the Message dealing with cities, which declared that the hour of crisis has passed."

I cannot agree. I believe, instead, that the hour of crisis is upon us, and is intensified by the federal withdrawal from urban problems. I would hate to have to explain to a poor black family in Bedford-Stuyvesant that's chained to an over-crowded slum apartment because of the housing subsidy freeze that this is really the best of all possible worlds. I would hate to have to explain to a poor black farm worker in Mississippi that the record gross national product means he's living in a golden era. And I would hate to have to explain to an unemployed Vietnam veteran who can no longer enter a federal manpower training program that he is being adequately repaid for his sacrifices.

Life in 1973 may be better for some people, but it is not better for black Americans. We are afflicted with unemployment rates more than double those for white workers. Black teenage unemployment is near 40 percent. Unemployment and under-employment in the ghettos of America is from one-third to one-half of the work force. The total number of poor people in this country has risen sharply in the past several years. No. This is no Eden in which we live and we cannot complacently agree that there is no longer a need for federal social service programs.

Another justification for ending some programs is arrived at by a method of reasoning I confess I am unable to comprehend. Such programs, it is said, have proved their worth and therefore the government should no longer operate them. Since they are so good, someone else should do them. I can only suppose that the next step will be to tell the Joint Chiefs of Staff that the armed forces have done such a good job that the federal government will stop funding them.

Another argument—a serious one of some substance—is that some programs have not worked and therefore should be abandoned. Such programs fall into two categories—those that appear to neutral observers to have accomplished their goals, and those that clearly have not been as effective as they should have been.

It is inaccurate and unfair to suggest that the community action programs or the Model Cities programs, to take two important examples, have failed. There is every indication that they have brought a new sense of spirit and accomplishment to many hundreds of cities. By fully involving poor people in the decision-making process they have contributed significantly to urban stability and to individual accomplishment. Federal evaluation studies endorse this view. Local political leadership has also insisted that the programs are successful. For years, the agony of the Vietnam War was justified on the grounds that we had made a moral commitment to the people there. Can we now abandon the moral commitment to our own cities and to our own people?

Some federal programs have been clear disappointments. Some of the housing subsidy programs, for example, were sabotaged not by poor people seeking a decent home, but by some speculators in league with some federal employees. Thus, although thousands of families have been sheltered by these programs; although scandal-free housing has been produced by effective non-profit organizations and although the need for low- and moderate income housing is pressing, federal housing subsidies have been frozen and appear on their way to an early death. The victims of federal housing failures are being punished doubly—once by ineffective program control, and again by the moratorium on all housing subsidies. Ending all housing programs because some have shown signs of failure makes about as much sense as eliminating the Navy because some new ships have had cost over-runs.

The final justification of the Administration's policies, and the core of the new American counter-revolution, is that federal funds will be transferred to local governments in the form of bloc grants in four major areas—community development, education, manpower and law enforcement. It is proposed that the federal government end its categorical grant programs administered, financed and monitored by federal agencies and that local governments should now decide whether to spend federal monies on job-training or on roads, on compensatory education in the ghetto or on a new high school in the suburbs. This has been called "returning power to the people."

To black Americans, who historically had no choice but to look to the federal government to correct the abuses of state and local governments, that is very much like hiring the wolf to guard the sheep. It is axiomatic in American political life, with some exceptions, that the lower the level of government, the lower the level of competence and the higher the margin for discrimination aaginst the poor and the powerless.

The power that has accrued to the central government is due to the failure of localities to be responsive to the needs of all but a handful of their constituents. Black Americans have looked to the federal government to end slavery, to end peonage, to restore our constitutional rights and to secure economic progress in the face of discrimination. Yes, we looked to Washington because we could not look to Jackson, to Baton Rouge or to Montgomery. White people looked to Washington too, for the federal programs that helped many of them survive the Depression, helped them move to suburbia and helped them to prosper economically. Now that Washington has finally embarked on programs that hold out some hope for minorities, we are told instead to look to local governments notorious for their historic insensitivity to the needs and aspirations of blacks and the poor.

Before falling prey to the siren song of local infallibility, the Administration should examine the use local governments are making of general revenue sharing grants already distributed. News reports from across the country repeat the same dismal story—federal money used to build new city halls, to raise police salaries, and to cut local taxes. All this is taking place at a time when school systems are falling apart, housing is being abandoned, and health needs are unmet. The record does not inspire confidence that lost federal social service programs will be replaced with effective local ones.

General revenue sharing is a fact. It is a reality. Thirty billion dollars is in the pipeline for state and local governments. Rather than throw still more money at local governments at the expense of federal programs with proven track records, the Administration should be developing performance standards and effective compliance mechanisms that assure these local programs will work. Folding—or rather, crumbling—federal social service programs into no-strings-attached special revenue sharing packages seems to me to be a prescription for disaster.

Black Americans have been assured that anti-discrimination regulations will prevent local abuses. While the Treasury Department's guidelines have been revised and strengthened, we still cannot take heart from such assurances. They come just a few weeks after the Civil Rights Commission reported the persistence of "inertia of agencies in the field of civil rights," and after the government was subjected to a federal court order to enforce the laws against school segregation. It is hard to imagine that the politically-charged decision to withhold funds from states or cities that discriminate will be made. And without federal standards assuring that funds will be used in behalf of poor people in need of job-training, public housing, and special school and health programs, the money will once again find its way into the pockets of entrenched local interests.

The proposed special revenue sharing approach breaks faith not only with poor people, but with local governments as well. What Washington gives with one hand it takes with the other. Mayors who once hungered for no-strings-attached bloc grants are now panicked by the realization that the funds they receive will be inadequate to meet the needs of their communities and will be less than their cities get in the current categorical-aid programs. In addition, there is the probability that future special revenue sharing funds will continue to shrink. Rather than shifting power to the people, the new American counterrevolution creates a vacuum in responsible power.

We must not forget, as so many have, that federal programs today do embody local initiatives and local decision-making. The myth of the Washington bureaucrat making decisions for people 3,000 miles away is false. The money often comes from the federal Treasury. The broad program goals and definitions of national needs come, as they should, from the Congress. But the specific program proposals, their implementation, and their support come from local governments, citizens and agencies. Those federal dollars that are now deemed tainted actually enable local citizens to meet local problems under the umbrella of national financial and moral leadership. To shift the center of gravity away from national leadership is to compound the drift and inertia that appear to categorize our society today.

It is in this context that the blast of white silence is so puzzling. Far more white people than blacks will be hurt by the budget cuts. Yet the responsibility for calling attention to their impact falls increasingly on black leadership. There are three times as many poor white families as they are poor black families. The majority of people on welfare are white. Of the black poor, more than half don't get one devalued dollar from welfare. Two-thirds of the families who got homes through the now-frozen 235 subsidy program were white. The majority of trainees in manpower programs, and three-fourths of the people who will lose their jobs under the public employment program are white.

But because black Americans have been the most vocal segment of the population in urging social reforms, there is the mistaken impression that only blacks benefit from them. The Battle of the Budget is a larger-scale replay of the fight for welfare reform waged—and lost—last year. Then, as now, black leadership was out front in favor of a living guaranteed income for all. But we had few white supporters, although many more white people than black would have

benefited. It is reasonable to ask, had we won that struggle would all of those poor white people have returned their income supplement checks? And it is fair to ask today that white people join us in the struggle to preserve the social services of the federal government that enable them, too, to survive.

The silent white majority that has been the prime beneficiary of the programs of the 1960s and is today the group most in need of further federal services will have to speak up. They are not stigmatized, as are blacks, by charges of special pleading by special Americans looking for special treatment. And their representatives in the Congress will have to act, too. They cannot complacently watch their constituents' welfare being trampled on, nor can they accept the shrinkage of their rightful constitutional role in our system of government.

Already, there have been signs that some Congressmen whose votes helped to pass progressive legislation a few short years ago are now of a mind to compromise with Administration power, to compromise the jobs and livelihood and needs of their constituents, to compromise the power of the Congress to control the purse and to influence domestic policies, and finally, to compromise their own principles. If this is so, it will be tragic for the Constitution, tragic for the country, tragic for the poor people, and tragic for the heritage of liberalism.

The gut issues of today—better schools, jobs and housing for all, personal safety and decent health care—are issues that transcend race. So long as they are falsely perceived as "black issues," nothing constructive will be done to deal with them. White America must come to see that *its* cities, *its* needs and *its* economic and physical health are at stake. The needs of blacks and whites are too strongly intwined to separate. As Whitney Young used to say, "We may have come here on different ships, but we're in the same boat now."

So white Americans must join with black people to rekindle the American Dream, and to sing, in the words of Langston Hughes:

> "O, let America be America again—
> The land that never has been yet—
> And yet must be."

THE POSTAL SERVICE

Mr. GURNEY. Mr. President, on March 7, the Post Office and Civil Service Committee here in the Senate began an investigation of the Postal Service. I am one of the many Floridians who are hopeful that this investigation will help us find a solution to the problems that are plaguing the mails.

I submitted testimony to the committee as I am confident many of my colleagues will. I request unanimous consent that my testimony be printed in the RECORD.

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

Mr. Chairman, as a fellow politician who does give a damn about the Postal Service. I certainly welcome the opportunity to testify before this committee. I'd like to say that it is a pleasure, but no one can really take any pleasure out of what's happening to our Postal Service. To put it bluntly, America depends on the mail—and the mail is not getting through—not in reasonable time at least.

Letters from constituents in Florida—when they finally arrive—indicate that the problem is getting worse all the time. As I pointed out in a recent Senate floor statement, mail that used to arrive in a day or two, now takes four or five to reach its destination—if the recipient is lucky.

For instance, a dentist in Green Cove Springs, Florida, mailed a bill to a patient four blocks away. It arrived four days later, having been routed through a city some 60 miles away.

Then, there is a man in Lake Worth, Florida, who waited thirteen days for a letter from St. Petersburg and an unbelievable two weeks for a letter sent by a neighbor living a bare 75 feet away.

Isolated examples—hardly. I hear of cases like this every day. Not too long ago, for instance, it took a letter mailed from a downtown office 20 blocks away five days to reach my Senate office. Much of my mail from Florida takes the best part of a week to arrive. Even air mail special delivery is now a two day proposition delivery wise.

Even the mailmen are getting embarrassed about the delays. On January 22, 1973, Mr. Tony Montanez, the president of the Miami branch of the National Association of Letter Carriers, wrote me as follows:

"On or about Thursday, January 11, 27 trays and 2 sacks of 2nd and third class mail arrived at the Shenandoah Post Office. Above mail was not delivered until Tuesday, January 16, 1973. Saturday, January 7, 1973, abnormal amount of re-directs were left unprocessed until the 12th and 13th of January. On Thursday, January 10, 1973, sales advertisement from Winn-Dixie [Supermarket] arrived at the Shenandoah unit. The sale was to expire on Saturday, January 20th. We received reports that above mail matter was not delivered until Monday, January 22, two days after the expiration of the sale."

Obviously, the neighborhood mail carrier is not to blame for all this, but he is the one who gets the blame. It can't help morale, or efficiency, for the postman to go out knowing he will face a barrage of complaints, some of which are bound to be belligerent or hostile.

Finally, I'd like to comment on the proposal to return to the old postal system. I know some Members of Congress have suggested this, but I would hope that it would be considered only as a last alternative. The idea of a self-supporting, pay-as-you-go post office corporation is not bad; it's the implementation that has left something to be desired. Before going back to the old way, perhaps we should provide more competition, more incentive to provide good postal service than we have had heretofore. We have a lot invested in this new postal system; before we write it off as a lost cause we should explore every possible avenue for making it work.

However, in the final analysis, it is performance that counts. The old saying "the mail must go through" is more applicable today than ever. Business depends on the mail more now than ever before; so, too, does government—at all levels. We cannot have eight carloads of mail getting lost, at last Monday's Washington Star-News reported, nor can we have riders on horseback beating the mail from Philadelphia to Washington as occurred last fall. In short, Americans cannot afford a further deterioration of postal services and they have every right to expect an improvement.

As my distinguished colleague from West Virginia, Senator Byrd, stated recently, a big part of the problem comes about long before the neighborhood postman gets his hands on the mail. Citing an example with which I am familiar, Senator Byrd pointed out that a package being sent from Tampa, Florida, to Sarasota, Florida—a distance of 75 miles—actually goes 470 miles before reaching its destination. No wonder it's many days late in arriving and no wonder the recipient is ready to curse out the mailman when he comes to the doorstep.

The explanation for this delay is found inside the post offices. Mr. Stan Gold, president of the Miami local of the American Postal Workers Union, has informed me that the service is under manned at the postal clerk level. In an attempt to avoid giving employees the protection of pension and health plans, the service has hired great numbers of inexperienced, temporary personnel. And since this policy has not proved very successful, the permanent employees have been compelled to work as much as eleven hours a day, six days a week. It is easy to see why efficiency and morale among these individuals is at an all time low.

I don't think any of us had this type of thing in mind when the Postal Reorganization Act was being formulated. What we wanted to do was to make the postal service a self-supporting corporation that would provide better service at uniform rates. We were told it would take five years but now, after 40% of the allotted time has passed, things have gotten worse, not better. If the promise of the postal service corporation is to be fulfilled, we need to turn things around and do it quickly.

A look at some figures is illuminating. In 1960, we spent about $3.8 billion to operate the post office. In 1970, $7.6 billion. In FY 1971, we spent about $8 billion. Fiscal 1973 saw an $11 billion dollar cost figure. For Fiscal 1974, the total for postal operations will exceed $12 billion. Inflation accounts for part of the expense, pay raises for another substantial chunk. But, while costs climb service deteriorates, mainly due to cutbacks in personnel. These cutbacks are being made in the name of economy which I'm all for, but there is such a thing as false economy.

For the time being, at least, it seems to me we need all the help we can get to speed up the delivery process. Until such time as the new facilities and equipment are brought in, and service can be maintained at a high level, perhaps we should hold off on further cutbacks on personnel.

That's just one possibility; there are several others. Take, for instance, this business of guaranteed mail shipments. Up until last month, countless bags of mail were taken out to airports, let sit for up to eight hours, and then often returned to the originating post office for shipment by train or truck. Just recently, postmaster General Klassen took a step in the right direction by reducing the period the airline had to decide if they would ship the mail from eight to four hours but this is still not enough.

According to a recent Wall Street Journal article, the airlines are willing to negotiate on a contract that would guarantee that the mail would go out once it reached an airport. This certainly makes sense to me, as it would ensure that more mail went by air and that fewer delays in shipping would occur. I hope that the negotiations I understand are now going on between the Postal Service and the scheduled airlines will produce some sort of a workable agreement.

Another possibility would be to contract out more of our package deliveries. In view of the fact that one private company is already delivering over half the parcels shipped each year, there is every reason to believe that companies like United Parcel and Railway Express could take over more of the burden if the Postal Service is overloaded. In that way, the Postal Service could concentrate on those essential services no one else can now provide.

Still another thought would be to make greater use of air-taxi services. By using airtaxis as mail carriers, more cities could benefit from first class mail going by air and more deliveries could be made. Right now, I am told, there are 32 airtaxi routes in the Southern States alone. If this were to be expanded—again on a contract basis—service would surely improve.

Just holding these hearings, I think, has

make a big difference. It has spotlighted the problem, focused public attention on it and encouraged those directly involved to come up with some answers. That's good, and I think that before these hearings are through, we will have some more answers. I certainly hope so, because I know from having talked to people down in Florida, that some answers are expected.

LEGALITY OF OEO TERMINATION

Mr. RIBICOFF. Mr. President, on January 26, President Nixon presented his proposed budget for fiscal year 1974. In his presentation, the President indicated that no funds would be requested for fiscal year 1974 for several programs administered by the Office of Economic Opportunity; that authority for other programs would be transferred from OEO to other Federal agencies; and that OEO itself would be abolished or discontinued.

In "The Budget of the U.S. Government, Fiscal Year 1974," the administration states that "certain functions of the Office of Economic Opportunity will be transferred to other agencies." In a chart on page 29, supra, containing a listing of full-time permanent positions in the Executive Office of the President for fiscal 1974, opposite the Office of Economic Opportunity is the figure "O." A footnote states: "Functions to be transferred and office abolished or discontinued." In the Budget itself, "appendix," pages 105–107, is a description of OEO functions for which no funding is requested or which are to be transferred to other agencies and the amounts of funds requested for each of the other agencies designated to carry on the functions received from OEO. No current programs would remain under the direct authority of OEO.

The administration's proposed actions with respect to the programs of the Office of Economic Opportunity raise serious questions concerning the administration's legal authority to transfer and terminate programs without the express consent of the Congress. These questions are entirely separate from issues concerning the wisdom of the actions as a matter of policy. For regardless of the merits of a particular policy, the Government's implementation of that policy must be in accordance with law.

On February 8, I wrote to Howard Phillips, Acting Director of the Office of Economic Opportunity, to ascertain the administration's legal basis for its actions with respect to OEO programs. On February 16, Mr. Phillips replied. The administration does not contend that there is legal authority in the Executive branch to transfer programs from one agency to another in the absence of affirmative legislation or the submission of a reorganization plan. It plans to transfer programs from OEO without such legislation or plan, and relies upon the authority of a section of the Economic Opportunity Act of 1964.

The administration's reply states that "no OEO program will be transferred within the purview of the Reorganization Act," but rather that programs would be "delegated" to other agencies under the authority of section 602(d) of the Economic Opportunity Act. That section states:

Sec. 602(d) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this Act and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Office of Economic Opportunity and the furnishing of such information by such Office to such other agencies.

The administration thus deems its proposed actions "delegations" in order to avoid submitting a reorganization plan to Congress, in spite of the fact that its own budget refers to 'transfers." A transfer would require submission of a reorganization plan.

I have submitted the administration's legal justification to the General Accounting Office and the American Law Division of the Library of Congress. Both these agencies concur that the administration's proposals raise serious questions of legality that are not fully answered by Mr. Phillips' response of February 16.

I am sending the GAO and Library of Congress memorandums to Mr. Phillips and asking that the administration take the necessary steps to bring its actions into compliance with the law.

I ask unanimous consent that my correspondence with Mr. Phillips and the memorandums from the GAO and the Library of Congress be inserted at this point in the RECORD.

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

LETTER FROM SENATOR ABE RIBICOFF TO HOWARD PHILLIPS, DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY

FEBRUARY 8, 1973.

Hon. HOWARD PHILLIPS,
Director, Office of Economic Opportunity, Washington, D.C.

DEAR MR. PHILLIPS: As you know, the Subcommittee on Executive Reorganization and Government Research has oversight responsibility concerning all executive branch reorganizations. At my direction, the Subcommittee staff has recently discussed with your staff several matters relating to the transfer and termination of certain OEO programs. Mr. Robert Trachtenberg, Deputy General Counsel, requested that these questions be submitted in writing to you. Accordingly, I submit the following questions and request answers to them by Thursday, February 15, 1973.

1. Please list each program authority to be terminated or transferred.

2. What will the effective date of each termination or transfer be?

3. What is the authority for each termination or transfer?

4. How will the program authorities which cannot be transferred under Section 28 of PL 92–424 be administered?

5. Do the provisions of the Reorganization Act, 5 U.S.C. 901, et seq., apply to any of these transfers? If not, why not? Do the provisions of Section 601(b) of PL 88–452 apply to any of these transfers? If not, why not?

6. How do you distinguish between these transfers and the transfer of VISTA to ACTION under Reorganization Plan No. 1 of 1971?

7. What is the legal difference between a transfer under 601(b) and a delegation under 602(d)?

8. When a program is delegated under Section 602(d), what authority or responsibility does OEO retain? Please supply copies of the delegations of Head Start to HEW and Job Corps to the Labor Department.

9. What is the authority for terminating the operation of the entire Office of Economic Opportunity?

10. Please submit any plans, documents, or orders concerning the proposed transfer or termination of the functions and authorities of OEO.

Sincerely,

ABE RIBICOFF.

LETTER FROM HOWARD PHILLIPS, ACTING DIRECTOR, OFFICE OF ECONOMIC OPPORTUNITY, TO SENATOR RIBICOFF

FEBRUARY 16, 1973.

Hon. ABRAHAM RIBICOFF,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Thank you for your letter of February 8, inquiring as to the Administration's plans to reform Federal anti-poverty activities. The Office of General Counsel, OEO, has prepared a memorandum responding to your questions, which I transmit herewith. If you require additional information, please let me know.

Sincerely,

HOWARD PHILLIPS,
Acting Director.

Date: February 16, 1973.

Reply to Attn. of: J. Alan MacKay, Acting General Counsel

Subject: To: Howard Phillips, Acting Director

Each question is started and answered in the order in which it was transferred.

1. Please list each program authority to be terminated or transferred.

Response: No program authority is being terminated. While funding under Section 221 of the Economic Opportunity Act for the core Community Action activities, as well as support for State Economic Opportunity Offices, the Senior Opportunities and Services program (SOS), and related training and technical assistance activities (T&TA) under section 230 will be local option in Fiscal Year 1974 and the F.Y. 1974 Budget requests no funding for them, the statutory basis for these activities will remain intact. States and local communities may continue to finance these activities with funds obtained through revenue sharing or with monies derived from other sources. As to program "transfers", it should be pointed out that no OEO program will be transferred within the purview of the Reorganization Act. More precisely, all OEO activities (other than the above listed activities for which no F.Y. 1974 funds are being requested) will either be delegated to other Federal agencies or will be undertaken under the legal authority of other Federal agencies. In both cases, the Budget requests the appropriation of funds directly to the receiving Federal agencies and funding is requested for all of these activities at the same or higher level than that requested for the Fiscal Year 1973.

2. What will be the effective date of each termination or transfer?

Response: A date certain has not been established for accomplishing the actions described above (which, as is indicated, do not constitute termination or transfers). It is anticipated that action will be taken after April 1, 1973, and no later than June 30, 1973.

3. What is the authority for each termination or transfer?

Response: Since no program authority is being terminated, the response is as set forth in answer to question No. 1 above. Pursuant

to section 602(d) of the Economic Opportunity Act the following activities will be delegated to the Department of Labor:

1. Migrant and Seasonal Farmworker Program (title III–B)

2. Research in fields of manpower training and labor force participation (section 232).

OEO programs serving Indian people will be continued by the Department of Health, Education and Welfare in F.Y. 1974 and converted to a special emphasis (section 222(a) program funded directly to Indian tribal councils. OEO will delegate the necessary section 222(a) authority to HEW.

All projects funded either under existing grants or contracts or grants or contracts funded in F.Y. 1974 will be carried out pursuant to the delegations under section 602(d). (For your convenience, attached is a copy of the text of Section 602(d) of the EOA which authorizes delegation of the Director's functions.) There are some activities currently funded by OEO which will be carried out in F.Y. 1974 under the legislative authority of other agencies, where that authority has been determined to be broad enough to encompass the EOA authority, thus obviating the necessity for a delegation of authority by OEO. These activities are as follows:

1. Alcoholic counseling and Recovery Program: (Activities will be continued by National Institute for Alcoholism and Alcohol Abuse within HEW.)

2. Drug Rehabilitation Activities: (HEW's National Institute of Mental Health (NIMH) will continue these activities.)

3. Comprehensive Health Services and Family Planning: (These activities will be continued by HEW. Essential OEO health manpower activities will be supported within the Bureau of Health Manpower Education and in the National Institutes of Health.)

4. Housing R. & D. Activities: (The Department of Housing and Urban Development will utilize its R & D authorities to test ways to provide adequate housing for disadvantaged persons.)

With respect to the Emergency Food and Medical Services program, no funds are being requested for this program in F.Y. 1974, except that projects serving Indians and migrants will be continued from funds requested for direct appropriation to HEW and DOL.

4. How will the program authorities which cannot be transferred under section 28 of P.L. 92–424 be administered?

Response: The Director's functions under section 221 (providing financial assistance for local initiative programs) are not being delegated in view of the fact that no local initiative funds for Community Action Agencies are being requested for F.Y. 1974. Accordingly, there is no issue as to the administration of this activity. (It is anticipated that the General Services Administration will be delegated authority, under other provisions of the EOA, necessary for the orderly phaseout of activities previously funded under the EOA, but no section 221 functions will be included in this delegation.) With respect to Title VII (Community Economic Development), the Office of Minority Business Enterprise will request legislative authority to undertake the Title VII activities.

5. Do the provisions of the Reorganization Act, 5 U.S.C. 901, et seq., apply to any of these transfers? If not, why not? Do the provisions of section 601(b) of P.L. 88–452 apply to any of these transfers? If not, why not?

Response: The provisions of the Reorganization Act do not apply to the actions outlined above. The Reorganization Act is not the exclusive mechanism by which receiving agency can legally carry out program activities of another agency. The Reorganization Act, itself, (at 5 USC 901(b)) recognizes that the purposes of the Act may be achieved by means other than under the terms of the Act. It is believed that Section 602(d) grants to the President and to the Director of OEO ample legal authority to achieve the initiatives set forth in the Budget to the absolute exclusion of the Reorganization Act. That it was contemplated that programs may be transferred under law without regard to the Reorganization Act is buttressed by the provisions of 31 USC 581c (b). This law, much like the provisions of the Reorganization Act (5 USC 904(4)), authorizes the President to transfer appropriations from one agency to another pursuant to a transfer of programs such as in the case of a delegation of authority, the only fair reading of Section 601(b) of the EOA is to grant the President authority to reorganize at any time without regard to the time restriction contained in 5 USC 905(b) for submitting reorganization plans. Beyond this, it is difficult, indeed, to interpret this language as providing to the President the exclusive mechanism for achieving the decisions reflected in the Budget. The legislative history applicable to Section 601(b) certainly provides no support to such interpretation. Lastly OEO has entered into numerous delegation agreements over the past years of which the Congress was fully aware and which were not substantially different from those now proposed.

6. How do you distinguish between these transfers and the transfer of VISTA to ACTION under Reorganization Plan No. 1 of 1971?

Response: The VISTA transfer to ACTION is vastly distinguishable from matters at hand. To begin, in the VISTA case a new agency was being created. No new agency is being established under the F.Y. 1974 budget decisions. More important, however, is the fact that several agencies did not have the legal authority, as does OEO, to delegate the programs to be carried out by ACTION. Consequently, there existed no legal mechanism to move those programs to ACTION.

7. What is the legal difference between a transfer under 601(b) and a delegation under 602(d)?

Response: Section 602(d) authorizes another Federal agency to carry out the Director's functions under appropriate arrangements, and where the receiving agency requires powers granted to the Director to carry out such functions, it authorizes the delegation of such powers. Under this arrangement the head of the receiving agency conducts delegated activities under the authority of the EOA and in substitution for the Director. A transfer under section 601(b), utilizing the authorities of the Reorganization Act, would have the same effect as a statutory redesignation of the agency having primary authority to administer the program. While it is true that no funds have been requested for OEO in F.Y. 1974, the OEO per se is not thereby abolished. It will remain as a statutory entity.

8. When a program is delegated under section 802(d), what authority or responsibility does OEO retain? Please supply copies of the delegations of Head Start to HEW and Job Corps to the Labor Department.

Response: The authority or responsibility OEO retains under a delegation varies largely according to the circumstances. In this connection, included are the requested delegated instruments, but also enclosed are delegation instruments pertaining to a delegation of authority from OEO to OMB under which OMB assumed the responsibility for the publication of the "Catalog of Federal Assistance Programs". It should be noted that OEO retained no responsibilities whatsoever with respect to the publication of the Catalog. It should also be noted that section 602(d) which authorizes the Director to delegate his functions to the heads of other Federal agencies does not require the Director to retain any authority over the conduct of the delegated functions. The section refers only to the maintenance of liaison and exchange of information between the agencies concerned.

9. What is the authority for terminating the operation of the entire Office of Economic Opportunity?

Response: The various authorities to carry out the F.Y. 1974 budget decisions have been fully discussed above. Moreover, there is no statutory provision which would legally prevent the actions being taken with respect to OEO and its programs. It should be mentioned, however, that consideration is being given to a plan under which a small OEO component would be retained within the Executive Branch to coordinate delegated programs and related activities.

10. Please submit any plans, documents, or orders concerning the proposed transfer or termination of the functions and authorities of OEO.

Response: Attached is a summary of the Budget decisions. Other than this document, no materials of the type requested exist.

"Sec. 602(d) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this Act and, as necessary or appropriate, delegate any of his powers under this Act and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Office of Economic Opportunity and the funishing of such information by such Office to such other agencies."

LETTER FROM ELMER B. STAATS, COMPTROLLER GENERAL OF THE UNITED STATES TO SENATOR ABE RIBICOFF

MARCH 7, 1973.

Hon. ABRAHAM A. RIBICOFF,
Chairman, Subcommittee on Executive Reorganization and Government Research, Committee on Government Operations, U.S. Senate.

DEAR MR. CHAIRMAN: Your letter of February 19, 1973, requested our views and comment on the February 16, 1973, response of the Acting Director of the Office of Economic Opportunity (OEO) to your February 8, 1973, inquiry in which several questions were set forth concerning the administration's plans for OEO.

It has been reported that the OEO is being phased out as an operating agency. In this connection, it is noted that the President's current budget submission requests no funds for OEO for 1974. See page 122 of the Budget of the United States Government, fiscal year 1974.

Central to the appropriateness of the administration's actions under section 602(d) of the Economic Opportunity Act of 1964, as amended, 42 U.S.C. 2942(d), is whether the delegation authority of that section can properly be used, in effect, to dismantle OEO. Section 602(d) authorizes the Director of OEO with the approval of the President to:

* * * arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions * * * and, as necessary or appropriate, delegate any of his powers * * * and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Office of Economic Opportunity and the furnishing of such information by such office to such other agencies * * *.

Initially the language of section 602(d) only contained the delegation and redelegation authority and it could be argued that this authority was never intended to be so broadly applied as to delegate entire programs. The transfer of substantially entire programs, however, prompted inclusion in the Economic Opportunity Amendments of 1966, Pub. L. 89–794, of the added liaison condition to these delegations. In this regard, the Committee report explaining the added liaison requirement reads as follows:

This amendment is designed to insure that all of the programs authorized by the act, whether emanating from the Office of Economic Opportunity itself, or delegated to another Federal agency, are operating as one in a single concerted, intermingled attack on the myriad problems of poverty.

The committee developed information which demonstrated that on both the regional and State levels staff personnel responsible for one area of activity under the act were unaware of what their counterparts operating other activities were doing. There appeared to be no single focal point in the field where the various programs under the act were coordinated. This situation if allowed to continue will not permit full achievement of the objectives sought.

The amendment calls for the establishment of close liaison between all concerned agencies at all levels, and provides that such liaison shall include the supplying, at all levels, to the Office of Economic Opportunity operational information by the agencies operating delegated programs.

It is felt that establishment of such procedures will allow for useful interchange of ideas, greater coordination of programs, and ultimately full implementation of the act. (Underscoring added.) See S. Rept. No. 1666, 89th Cong., 25–26.

In conference this requirement was amended to insure that with regard to furnishing information there would be a complete two-way exchange of information between OEO and the other Federal agencies. See H. Rept. No. 2298, 89th Cong., 36.

The only restrictions in the law on this broad delegation authority is found in section 28 of the Economic Opportunity Amendments of 1972, Pub. L. 92–424 which provides:

Notwithstanding the provisions of section 602(d) of the Economic Opportunity Act of 1964, the Director of the Office of Economic Opportunity shall not delegate his functions under section 221 (local initiative programs) and title VII (Community Economic Development) of such Act to any other agency.

With these two exceptions, under the literal language of section 602(d) the program functions of OEO have been delegated piecemeal to other agencies of the Government and in certain cases appropriations for such functions have been made by the Congress directly to such agencies. In addition to the congressional recognition of these delegations, it is arguable under the *Expressio Unius Est Exclusio Alterious* rule that in specifically reserving these two programs from delegation Congress has acknowledged that all other OEO functions can be delegated under section 602(d). It is recognized that application of this authority to the extent envisioned by the administration is at counter purpose to the congressional policy that OEO is to continue through fiscal year 1975 and to the acknowledged fact that congressional policy established in its enactments can only be changed by further enactments. In this context it should be recognized however that, along with the other provisions of OEO legislation, the delegating of section 602(d) remains congressional policy today although it was never contemplated that such authority would be used to dismantle OEO.

Accordingly, absent further congressional action to the contrary, it is our view that the legality of the delegations of individual programs or functions under section 602(d) cannot be questioned. Of course, the administration's failure to budget for the programs that cannot be delegated under section 602 (d) and any reduction in the 1973 programs is not in consonance with the OEO legislation. The Congress can of course fund these programs and specifically mandate their continuance through OEO or otherwise.

Having expressed these views it would serve no purpose, with one exception, to address the remaining issues raised in the February 16 response. That exception relates to the ninth response where it is stated that consideration is being given to a plan under which a small OEO component will be retained within the executive branch to coordinate delegated programs and related activities.

It is our view that the administration is legally required to retain an OEO organization. The delegation and redelegation authority of section 602(d) is subject to the assurance that maximum possible liaison between OEO and other agencies be maintained which shall include the furnishing of complete operational information by agencies to OEO and the furnishing of such information by OEO to the agencies. It will be manifestly impossible to carry out this requirement without an OEO.

As can be noted from the quoted language from S. Rept. No. 1666, 89th Cong., the liaison requirement of section 602(d) was added after a showing of need for a single focal point where various programs could be coordinated. With the large scale delegations now taking place it would appear to us to be mandatory that there be retained in OEO a sufficient operation to carry out the liaison required by section 602(d) as well as its other statutory responsibilities which are not delegated.

Sincerely yours,

ELMER B. STAATS,
Comptroller General of the United States.

ISSUES RAISED BY THE PROPOSED DISCONTINUANCE OF THE OFFICE OF ECONOMIC OPPORTUNITY

In answer to questions propounded by the Senate Subcommittee on Executive Reorganization, the Director of the Office of Economic Opportunity in essence denies that any "program authority is being terminated" or that any OEO program is being "transferred within the purview of the Reorganization Act." Rather, it is asserted, all OEO programs are to be "reform(ed)" in one of three lawfully supported ways: (1) by delegation pursuant to section 602(d) of title VI, P.L. 88–452, as amended, 42 U.S.C. 29 42(d); (2) by requesting no funding for certain programs in fiscal year 1974; or (3) by having certain programs carried out in FY 1974 under the legislative authority of other federal agencies where the authority of those agencies "has been determined to be broad enough to encompass the EOA authority, thus obviating the necessity for a delegation of authority (under section 602(d)) by OEO. The memorandum concludes that such actions will not result in the abolition of the agency since OEO will continue to remain a statutory entity: "while it is true that no funds have been requested for OEO in F.Y. 1974, the OEO per se is not thereby abolished. It will remain as a statutory entity."

However, in "The Budget of the United States Government, Fiscal Year 1974," pp. 28–29, it is noted—"the following actions are now being taken:

"Certain functions of the Office of Economic Opportunity will be transferred to other agencies of Government which have primary responsibility for similar social and economic activities."

In a chart on page 29, *supra*, containing a listing of full-time permanent positions in the Executive Office of the President for fiscal 1974, opposite the Office of Economic Opportunity is the figure "O". A footnote states: "Functions to be transferred and office abolished or discontinued". In the Budget itself, "Appendix", pp. 105–107, is a description of OEO functions for which no funding is requested or which are to be transferred to other agencies and the amounts of funds requested for each of the other agencies designated to carry on the functions recived from O.E.O. No current programs would remain under the direct authority of OEO under the scheme.

Thus, it would appear from the clear expressions of intent contained in the Budget, and the total nature of the dispositions described in the OEO memorandum (apart from the nomenclature attached to these dispositions) that the proposed actions effectively amount to an abolition of the Office of Economic Opportunity. In view of the legislative history of the Economic Opportunity Act of 1964, P.L. 88–452, as amended, and the presence of the Executive Reorganization Act, 5 U.S.C. 901–913, serious questions may be raised as to validity of the methods proposed to be utilized to effect that abolition.

In major part, the Executive intends to rely on section 602(d) to achieve the subject transfers. That section gives the Director of OEO authority to transfer existing programs to other Federal agencies subject to provisions to assure the maximum possible liaison between OEO and such other agencies. The section provides:

In addition to the authority conferred upon him by other sections of this chapter, the Director is authorized, in carrying out his functions under this chapter, to—

(d) with the approval of the President, arrange with and reimburse the heads of other Federal agencies for the performance of any of his functions under this chapter and, as necessary or appropriate, delegate any of his powers under this chapter and authorize the redelegation thereof subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of complete operational information by such other agencies to the Office of Economic Opportunity and the furnishing of such information by such Office to such other agencies;

That this section was not intended to authorize the transfer of all functions of OEO, since it assumes that OEO will still continue in the Executive Office of the President, appears confirmed by its legislative history. Thus, House Report No. 1458 states:

TITLE VI—ADMINISTRATION AND COORDINATION

Title VI establishes the Office of Economic Opportunity in the Executive Office of the President. The Office of Economic Opportunity would be headed by a Director, who would be appointed by the President by and with the advice and consent of the Senate. Authority to carry out the programs which would be created by the bill would be in the Director. The Director would be authorized, with the approval of the President, to delegate any of his powers under the bill. In line with this concept, the committee specifically provided language to insure the fullest utilization of all existing Federal agencies in carrying out the purposes of this act. It is, therefore, contemplated that the Director will coordinate the administration of the various programs so that the Department of Health, Education, and Welfare will be utilized in the execution of title I, part C, workstudy programs, title II, part

B, adult basic education program, and title V, work experience programs; the Department of Labor will be utilized for title I, part B, work-training programs; the Department of Agriculture will be utilized for title III, part A, special program to combat poverty in rural areas; and the Small Business Administration will be utilized in the administration of title IV, employment and investment incentives.

The Office of Economic Opportunity will administer the other programs authorized by the bill. (1964 Act)

Consequently, the basic statute itself does not authorize the action proposed by the Budget or the OEO memorandum. This conclusion is further supported by a section of the Report of the Senate Labor and Public Welfare Committee (S. Rept. 91–453, accompanying S. 3016, the Economic Opportunity Amendments of 1969 (P.L. 91–177)). That Report makes clear that while OEO was not intended to be a traditional operating agency, Congress did intend that it should develop programs until they joined a degree of maturity and then transfer them while maintaining maximum liaison with agencies to which the functions were delegated. This liaison provision, added on the Senate floor during debate on what eventually became the Economic Opportunity Amendments of 1966, P.L. 89–794, confirms the intent of Congress that section 602(d) was not meant to be a mechanism for abolition of the agency:

The question of "delegation"

OEO was not intended to be a traditional agency and there are many who feel that it should not retain responsibility for operating established programs on a permanent basis. In this view, if it were to become simply another permanent operating agency, it would lose its vital character as an innovator and as a goad, assigned to probe into new areas and to prod other agencies into action on neglected problems.

In any event, the committee is most insistent that the OEO continue to play a vigorous role in the Government-wide War on Poverty, both at the national level and at the local level through its community action agencies. The committee is determined that programs in which substantial human and financial resources have been invested be given time to prove their potential contribution. It is most anxious that the long neglected effort to eradicate poverty—whether conducted by OEO or any other agency—not suffer because of the competition for funds which always places great stresses on the executive branch. Within those limitations, the committee commends the administration for its expressed desire to make maximum use of the OEO as an experimental laboratory, to seek the most effective answers to the dilemma of poverty in an affluent nation, and then to establish on-going programs to put those discoveries into full effect.

The previous administration delegated certain OEO functions to other Federal agencies in accord with the Economic Opportunity Act. The present administration has extended this practice by delegating the OEO-operated Job Corps program to the Department of Labor, and the Headstart program to the Office of the Secretary of Health, Education, and Welfare.

The delegation of an OEO-operated program to another Federal agency inevitably causes concern among supporters of the program. Fears are aroused that the spirit of the program may be lost in the process, particularly the special sensitivity to the needs of the poor which has been emphasized in OEO programs. On occasions the program is delegated to an agency which has been judged delinquent in meeting the needs of the poor in the past.

The committee understands the basis for such concern. It took considerable testimony on ways of meeting this problem. In the end, the committee accepted the assurances of the administration that no further delegations are contemplated at this time, and that those delegations already ordered will be carried out with scrupulous regard for the law. In this connection, it is worth noting the language of the statute which provides that delegation shall be "subject to provisions to assure the maximum possible liaison between the Office of Economic Opportunity and such other agencies at all operating levels, which shall include the furnishing of such information by such office to such other agencies."

The committee intends to maintain legislative oversight over the delegation of OEO programs to other agencies to make certain that the public investment in these programs is preserved, that they are not "swallowed up" in agencies which sometimes have been insensitive to the problems of poverty, and that the language in the delegation statute is complied with.

Congress has, on three occasions, expressly prohibited the Director of OEO from delegating certain specified programs under the authority of section 602(d): (1) the Legal Services Program, in the Economic Opportunity Amendments of 1969, P.L. 91–177, sec. 114; (2) programs under titles II, III, VI, and VII administered by the Director under the 1964 Act during fiscal year 1973 and 1973 (sec. 10 of S. 2007, 92nd Congress, 1st Sess., 1971 (vetoed by President Nixon); and (3) the community action agencies (sec. 221) and the community economic development program (title VII), in the Economic Opportunity Amendments of 1972, P.L. 92–424, section 28. In the enactment of these prohibitions there is no indication of a congressional belief that all functions could be transferred under section 602(d) so as to abolish OEO or that such prohibitions were necessary to prevent such a result. Rather, these prohibitions were adopted for reasons of policy respecting possible conflict of interest and the advantage of growth time for programs before a spin-off. Thus, the reason for the first prohibition was concern about conflict of interest by OEO attorneys in representing clients against government agencies should the Legal Services program be transferred elsewhere. It was felt that by retaining Legal Services in OEO possible conflict of interest problems and constraints on professionalism would be held to a minimum. See Senate Report 91–453 (1969). The provision of the 1971 bill was a result of a policy agreement between the Senate Committee on Labor and Public Welfare and the Administration. As illustrated by the following debate in the Senate from the Daily Congressional Record of September 8, 1971, (pp. 13910–13912) on S. 2007, among Senators Nelson, Taft, and Schweiker, the Administration had orally agreed to "spin-off" certain programs for OEO by legislation an not by use of the delegative authority.

When no letter was received from the Administrator to this effect, however, the Committee submitted what was to become section 10 of S. 2007 to prohibit the transfer or delegation of programs under titles II, III, IV, and VII of the Act over a two year period without legislative approval.

The foregoing debate in no way concedes use of the section 602(d) delegation authority to the point of abolition of the agency. Rather, it confirms anew the concept of OEO as a research and development agency transferring matured, developed programs to other agencies, while retaining a central liaison function after the transfer.

Little, if any, legal justification seems to exist for the proposed transfers of the Alcoholic Counseling and Recovery, Drug Rehabilitation and Redevelopment programs (OEO response to question #3) which is founded on theory that where the legislation authority of another agency is broad enough to encompass the particular OEO authority, no federal delegation by the Director is necessary. The proposition appears simply to ignore the plain mandate of section 602(d).

In sum, the proposed Executive actions, when viewed in their totality, would effectively result in the abolition of OEO; and although the delegation authority of section 602(d) is not scheduled to be used to effect each and every transfer, the manifest design of the Executive plan as evidenced in the Budget and the OEO memorandum is patently contrary to the underlying congressional intent as to how and when transfers were to be effected. It is arguable then that any use of the delegation authority for abolition purposes is tainted and unlawful.

Therefore, the relevant law respecting transfers or abolitions of agency functions which must be looked to in this situation is contained in the Executive Reorganization Act (5 U.S.C. 901–913), which provides in pertinent part:

Section 901(a): The President from time to time examine the organization of all agencies and shall determine what changes therein are necessary to accomplish the following purposes:

(2) to reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the Government;

(5) to reduce the number of agencies by consolidating those having similar functions under a single head, and to abolish such agencies or functions thereof as may not be necessary for the efficient conduct of the Government; . . .

(b) Congress declares that the public interest demands the carrying out of the purposes of subsection (a) of this section and that the purposes may be accomplished in great measure by proceeding under this subchapter, and can be accomplished more speedily thereby than by enactment of specific legislation.

Section 903(a): When the President, after investigation, finds that—

(1) the transfer of the whole or a part of the function thereof, to the jurisdiction and control of another agency; . . . is necessary to accomplish one or more of the purposes of section 901(a) of this title, he shall prepare a reorganization plan for the making of the reorganization as to which he has made findings and which he concludes in the plan, and transmit the plan . . . to Congress. . . .

Section 906(a): . . . a reorganization plan is effective at the end of the first period of 60 calendar days of continuous session of Congress after the date on which the plan is transmitted to it. Unless, between the date of transmittal and the end of the 60-day period, either House passes a resolution stating in substance that the House does not form the reorganization plan.

That the Reorganization Act is applicable to the Executive Office of the President is demonstrated by Reorganization Plan No. 1 of 1973, submitted by the President (Daily Congressional Record, January 26, 1973, p. 2193, which, among other things, abolishes the functions of the National Aeronautics and Space Council.

With respect to remedying the situation, resort may be had to court actions or legislation. Since it is arguable that the proposed actions of the Executive is beyond the authority granted by Congress in the 1964 Act as amended, it may be contended that any such action would be an abuse of discretion (see, for example, *State Highway Commission of Wisconsin* v. *Volpe*, Civil Action No. 1616, U.S.D.C. Mo., June 19, 1972). The vehicle to test this theory could be a declaratory judgment action pursuant to 28 U.S.C. 2201–2202 and an order for a mandatory injunction. However, a court action at this time could be deemed to be premature. The changes proposed by the Executive

would not finally go into effect as respects guidelines under existing statutes, until the last transfer has been made, and Congress may legislate with respect to them either before or after the end of this fiscal year to cancel them out if need be. No administration action has taken place yet and even if it had, opportunity should exist for Congress to deal with the problem itself. The nature of the proposed action is such as to leave remedial action first to the legislature. Congress, for example, can provide funds for community action programs since such has been authorized in P.L. 92-424. Abuse of administrative discretion, at this stage, can still be corrected by Congress.

Moreover, court action at this time might run into standing problems. That is, there may be difficulty in showing personal harm as well as harm to the community from the proposed administrative action. Administrative actions taken subsequent to action by Congress could provide a firmer foundation for litigation. It is suggested, therefore, that a more certain remedy at this point, and one that would enable Congress to clarify policy in this area, is through the legislation process.

The following legislative actions may be considered:

To prevent the transfer of any functions a bill might be introduced to delete section 602(d) from the Act. This could be made retrospective to cancel any transfers effected prior to enactment. This would remove all transfer powers from the Director of OEO. There would appear to be no constitutional prohibition against such a retrospective provision since no vested interest would be put in jeopardy. Also, the bill might contain a provision that directs the President to effect all changes in OEO through the processes of the Reorganization Act.

The bill might also contain a provision in mandatory language that monies appropriated pursuant to authorizations for programs administered under the 1964 Act, as amended, shall not be impounded, or, that such programs shall not be suspended or phased out, without congressional approval. Further, as an additional safeguard, a broad standing provision might be considered to allow for possibly litigation by affected persons in the event that the mandatory spending injunction is ignored.

MORTON ROSENBERG,
Legislative Attorney.

MARCH 2, 1973.

LETTER TO HOWARD PHILLIPS

MARCH 20, 1973.

Hon. HOWARD PHILLIPS,
Acting Director, Office of Economic Opportunity, Washington, D.C.

DEAR MR. PHILLIPS: Thank you for your letter of February 16, concerning the legal basis for the Administration's announced actions with respect to the Office of Economic Opportunity.

I have submitted your letter to the General Accounting Office and the Library of Congress for analysis of the legal arguments. Copies of their analyses are enclosed. These analyses confirm that serious legal problems concerning the Administration's proposed actions remain to be resolved. I urge you to study these memoranda closely and would like an explanation of what you propose to do to resolve this question.

Sincerely,

ABE RIBICOFF.

JASPER E. "JAP" PALLESEN

Mr. DOLE. Mr. President, farmers of Kansas and the United States have come to depend on the crop reporting forecasts and historical records of the Crop Reporting Service of the Department of Agriculture.

Throughout the development of this reporting service, it has contributed greatly to the economic stability of the Nation, as it enables farmers to appraise production records accurately based on historical data and has been of general public benefit in supplying projected production forecasts.

The diligence and accuracy with which this information has been compiled is based largely on the personnel involved. One of the leaders in this service has been the man who was in charge of the Statistical Reporting Service office in Kansas the past 15 years, Jasper E. "Jap" Pallesen.

He is known and respected throughout the State and the agricultural field as a man of integrity and dependability. His contribution to the general agricultural economy of the Nation has been great and a recent issue of the Topeka, Kans., Capital newspaper carried an editorial on the occasion of his retiring. I would ask unanimous consent that this editorial entitled "True Public Servant" be inserted in the RECORD.

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

TRUE PUBLIC SERVANT

Jasper E. "Jap" Pallesen, who probably added more to the sum of knowledge of Kansas agriculture than any other man, has passed the responsibilities he discharged for 40 years for the U.S. Dept. of Agriculture to another and has retired.

A Nebraskan by birth, but a Kansan by choice, Pallesen headed the Statistical Reporting Service of the USDA for the last 15 years. He reveled in statistics and became a walking encyclopedia of Kansas crop and livestock production.

A quiet, accommodating man, Jap could extract life from a dull column of figures. He easily could translate them into an interesting, informative and readable story.

To him, the statistics reflected and projected trends in seeding, breeding, pricing and processing of farm products. Farmers relied completely on the statistics produced by the staff of enumerators and officeworkers serving under Pallesen.

Crop reporting was initiated at the request of producers who felt they were lagging buyers in information available. As a result, the complete reports of crop and livestock prospects and production were made available to all at the same time.

So important are the reports in the state and in the nation that they never are released until the stock and grain exchanges have closed. Often the findings of the reporting service exercise great influence on the markets.

Knowing this, Pallesen's guardianship of this public trust always was impeccably correct and above question. In truth, his career was one of true public service.

AN OPEN BUDGET OPENLY ARRIVED AT

Mr. HUMPHREY. Mr. President, the New York Times today published an editorial entitled "Open Budget," which describes the critical weaknesses of the Congress in dealing with the executive budget. As the editorial points out, the President's budget proposal, once it reaches Capitol Hill, is broken down into "large chunks which are assigned to a dozen separate Appropriations Subcommittees, whose decisions are usually conclusive."

The editorial notes that, despite the fact that these subcommittees do excellent work in their special areas, and have cut the President's budget requests by $20 billion in the last 4 years, they are narrowly focused, and not geared to making studied judgments on the unstated economic and social assumptions in the President's budget.

I am pleased that the New York Times editorial endorses the bill that Representative MOORHEAD and myself have introduced, the Fiscal and Budgetary Reform Act of 1973, S. 1030. This bill would assign to the Joint Economic Committee the resources to study the budget message and propose an overall budget ceiling within which the Appropriations Committees would work. Under this bill, an Office of Budget Analysis and Program Evaluation would analyze budget priorities. It would offer alternative budget strategies. It would independently evaluate existing programs for the Congress.

The bill would also open up the budget process within the executive branch.

Mr. President, I ask unanimous consent that the New York Times editorial be inserted in the RECORD.

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

OPEN BUDGET

The struggle between President Nixon and Congress over the content of the budget has directed attention to a long-standing Congressional weakness. The House and Senate lack a regular system for viewing the budget as a total entity.

As matters now stand, the budget once it reaches Capitol Hill is broken down into large chunks which are assigned to a dozen separate Appropriations subcommittees, whose decisions are usually conclusive.

These subcommittees are often painstaking in their examination of specific programs. Contrary to the impression which the Administration is seeking to create of an irresponsible, free-spending Congress, the appropriations subcommittees have cut Mr. Nixon's budget requests in the last four years by a total of more than $20 billion. The huge deficits of the Nixon years have been Presidentially-submitted budget deficits.

The fact remains that the subcommittees are too narrowly focused; they tend to concentrate on waste and day-to-day weaknesses in the management of Federal programs. But a Federal budget is much more than an adding up of expenditures or an exercise in cost accounting. It represents a series of judgments about the nation's needs and priorities; it is a kind of social accounting that requires examination in the broad context of the economy's condition and prospects and the society's strengths and weaknesses.

Out of recognition that Congress needs better independent machinery for assessing the unstated assumptions in the President's budget, Senator Humphrey of Minnesota and Representative Moorhead of Pennsylvania have introduced the Fiscal and Budgetary Reform Act of 1973, giving the Joint Economic Committee the power to study the budget and propose an over-all budget ceiling within which the Appropriations Committees would work. The committee would have its own professional staff and its own computers to enable it to analyze budget alternatives for the Congress, much as the Office of Management and Budget analyzes them for the President.

The bill would also open up the budget process within the Executive branch. Agency heads would submit copies of their initial budget requests to the proposed Congressional Office of Budget Analysis as well as to

the O.M.B. Governors and mayors would be permitted to testify; transcripts of all budget sessions would be made available to Congress and public.

Reforms of this kind may even surpass in importance the opening up of Congress' own committee hearings which has now begun in the House. An open budget openly arrived at would greatly enhance the education of Congress and the public about budget alternatives. It would correspondingly reduce the mystery which is now one of the chief props for the President's dominance in this field.

The joint study committee on the budget set up by the last Congress is examining ways to strengthen procedures on Capitol Hill to respond to the President's aggressive challenge. The Humphrey-Moorhead bill offers that committee a simple yet comprehensive plan which would gradually enable Congress to define its majority judgment on national priorities much more effectively than at present.

HUMANIZING THE EARTH

Mr. CURTIS. Mr. President, on December 29, Dr. Rene Dubos, the renowned scientist and author, delivered the 1972 B. Y. Morrison Memorial Lecture before the American Association for the Advancement of Science, convened here in Washington for its 139th annual meeting.

In his lecture, "Humanizing the Earth," Dr. Dubos noted that nature does not always know best. He said that man, using scientific knowledge, can manage the earth so as to create environments that are ecologically stable, economically profitable, esthetically rewarding, and favorable to the continued growth of civilization.

The Morrison Memorial Lectureship is presented by the Agricultural Research Service of the U.S. Department of Agriculture. The lectureship commemorates the work of an outstanding scientist. B. Y. Morrison, closely involved with the Department most of his life, was the first Director of the National Arboretum. During the past 5 years, Morrison Lecturers have discussed problems relating to the environment, and the lectureship has made possible an exchange of ideas with a cross section of the scientific community.

The fifth annual B. Y. Morrison Memorial Lecture is a particularly eloquent assessment of our environmental stewardship, and I respectfully request unanimous consent that it be entered in the RECORD.

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

HUMANIZING THE EARTH

(By Dr. Rene Dubos)

How grey and drab, unappealing and unsignificant, our planet would be without the radiance of life. If it were not covered with living organisms, the surface of the earth would resemble that of the moon. Its colorful and diversified appearance is largely the creation of microbes, plants, and animals which endlessly transform its inanimate rocks and gases into an immense variety of organic substances. Man augments still further this diversification by altering the physical characteristics of the land, changing the distribution of living things, and adding human order and fantasy to the ecological determinism of nature.

Many of man's interventions into nature have, of course, been catastrophic. History is replete with ecological disasters caused by agricultural and industrial mismanagement. The countries which were most flourishing in antiquity are now among the poorest in the world. Some of their most famous cities have been abandoned; lands which were once fertile are now barren deserts.

Disease, warfare, and civil strife have certainly played important roles in the collapse of ancient civilizations; but the primary cause was probably the damage caused to the quality of the soil and to water supplies by poor ecological practices. Similarly today, the environment is being spoiled in many parts of the world by agricultural misuse or overuse, by industrial poisoning, and of course by wars.

The primary purpose of the recent U.N. Conference on the Human Environment, held in Stockholm last June, was to formulate global approaches to the correction and prevention of the environmental defects resulting from man's mismanagement of the earth. I shall not discuss the technical aspects of these problems but rather shall try to look beyond them and present facts suggesting that man can actually improve on nature. In my opinion, the human use of natural resources and of technology is compatible with ecological health, and can indeed bring out potentialities of the earth which remain unexpressed in the state of wilderness.

The disastrous ecological consequences of many past and present human activities point to the need for greater knowledge and respect of natural laws. This view is succinctly expressed by Dr. Barry Commoner in his foutrh law of ecology: "Nature knows best." I shall first discuss the limitations of this law.

When left undisturbed, all environments tend toward an equilibrium state, called the climax or mature state by ecloogists. Under equilibrium conditions, the wastes of nature are constantly being recycled in the ecosystem, which becomes thereby more or less self-perpetuating. In a natural forest, for example, acorns fall to the ground and are eaten by squirrels, which in turn may be eaten by foxes or other predators; the dead leaves and branches, the excrements of animals, are utilized by microbes, which return their constituents to the soil in the form of humus and mineral nutrients. More vegetation grows out of the recycled materials, thus assuring the maintenance of the ecosystem.

When applied to such equilibrated systems, the phrase "Nature knows best" is justified, but is in fact little more than a tautology. As used in this phrase, the word nature simply denotes a state of affairs spontaneously brought about by evolutionary adaptation resulting from feedbacks which generate a coherent system. There are no problems in undisturbed nature; there are only solutions, precisely because the equilibrium state is an adaptive state. But in a given area, there is usually more than one possible equilibrium state, and there is no evidence that the natural solution is necessarily the best or the most interesting solution. In fact, it is likely, as I shall illustrate later, that the symbiotic interplay between man and nature can generate ecosystems more diversified and more interesting than those occurring in the state of wilderness.

What is surprising is not that natural environments are self-sustaining and generally appear efficient but, rather, that many of them constitute clumsy solutions to ecological problems. Many of these solutions appear inadequate, even where nature has not been disturbed by man or by cataclysms, and therefore could have been expected to reach the optimum ecological state.

That the wisdom of nature is often shortsighted is illustrated by the many disasters that repeatedly affect plants and animals in their undisturbed native habitats. The repeated population crashes among animal species such as lemmings, muskrats, or rabbits result from the defectiveness in the natural mechanisms which control population size. These crashes unquestionably constitute traumatic experiences for the animals, as indicated by the intense behavioral disturbances which often occur among them long before death. The crashes constitute, at best, clumsy ways of reestablishing an equilibrium between population size and local resources. Judging from the point of view of lemmings, muskrats, and rabbits—let alone human beings—only the most starry-eyed Panglossian optimist could claim that nature knows best how to achieve population control.

Most surprising is the fact that, even without environmental changes caused by human interference or accidental cataclysms, nature fails in many cases to complete the recycling processes which are considered the earmarks of ecological equilibrium. Examples of such failures are the accumulation of peat, coal, oil shale, and other deposits of organic origin. These materials are largely derived from the bodies of plants and other living things that have become chemically stabilized after undergoing only partial decomposition. The very fact that they have accumulated in fantastic amounts implies that they have not been recycled. Paradoxically, man helps somewhat in the completion of the cycle when he burns peat, coal, or oil, because he thereby makes the carbon and minerals of these fuels once more available for plant growth. The trouble with this form of recycling is that the breakdown products of the fuels are so rapidly put back into circulation through air, water, and soil that they overload contemporary ecological systems.

The accumulation of guano provides another example of recycling failure on the part of nature. This material, now used as a fertilizer, consists of the excrements deposited by birds on certain islands and cliffs. For example, millions of sea birds use the Chincha Islands off the coast of Peru as a resting place and breeding ground; their droppings, accumulated through centuries or perhaps millenia, have formed layers of guano from 60 to 100 feet in thickness. Guano, being rich in nitrogen, phosphate, and potash, constitutes an ideal fertilizer, and its accumulation therefore represents a spectacular example of recycling failure. Here again, man completes the recycling process by collecting guano and transporting it to agricultural fields where it reenters the biological cycle in the form of plant nutrient.

Just as it is erroneous to claim that nature has no waste, so it is erroneous to claim that it has no junkyards. The science of paleontology is built from the wastes and artifacts casually abandoned by primitive man. Admittedly, the accumulation of solid wastes in technological societies is evidence of a massive failure of recycling for which man is responsible. But this ecological failure is the expression of behavioral characteristics that have always existed in human nature. Like the great apes, primitive man was wasteful and careless of his wastes, and we have remained so throughout history.

The solid waste problem has become grave in our times because we produce more wastes than in the past, and what we reject is commonly of a chemical composition not found in natural ecosystems. Nature does not know how to deal with situations that have no precedents in the evolutionary past. The solution to the problem of solid wastes, therefore, cannot be found in the ways of nature. It requires new technological methods and changes in the innate (natural!) behavior of man.

Hailstorms, droughts, hurricanes, earthquakes, volcanic eruptions are common enough to make it obvious that the natural world is not the best possible world; man is not responsible for these disasters, but

he suffers from them as do other living things Of greater interest, perhaps, is the fact that nature is incapable, by itself, of fully expressing the diversified potentialities of the Earth. Many richnesses of nature are brought to light only in the regions that have been humanized: agricultural lands, gardens, and parks have to be created and maintained by human toil.

Until man intervened, much of the earth was covered with forests and marshes. There was grandeur in this seemingly endless green mantle, but it was a monotonous grandeur chiefly derived from immensity and uniformity. The primeval forest almost concealed the underlying diversity of the earth. This diversity was revealed by man in the process of producing food and creating his civilizations. Since an extensive analysis of the creative transformations of the earth by man would be impossible here, I shall illustrate it with one single example, namely, that of the part of France where I was born and raised.

Before human occupation, the Ile de France was a land without any notable characteristics. The hills have such low profiles that they would be of little interest without the venerable churches and clusters of houses that crown their summits. The rivers are sluggish and the ponds muddy, but their banks have been adapted to human use and their names have been celebrated so often in literature that they evoke the enchantment of peaceful rural scenes. The sky is rarely spectacular, but painters have created a rich spectrum of visual and emotional experiences from its soft luminosity.

Ever since the primeval forest was cleared by Neolithic settlers and medieval farmers, the province of the Ile de France has retained a humanized charm which transcends its natural endowments. To this day, its land has remained very fertile, even though part of it has been in continuous use for more than two thousand years. Far from being exhausted by intensive agriculture over such long periods of time, the land still supports a large population and a great variety of human settlements.

What I have just stated about the Ile de France is, of course, applicable to many other parts of the world. Ever since the beginning of the agricultural revolution during the Neolithic period, settlers and farmers have been engaged all over the world in a transformation of the wilderness. Their prodigious labors have progressively generated an astonishing diversity of man-made environments, which have constituted the settings for most of human life. A typical landscape consists of forested mountains and hills serving as a backdrop for pastures and arable land, villages with their greens, their dwellings, their houses of worship, and their public buildings. People now refer to such a humanized landscape as "nature," even though most of its vegetation has been introduced by man and its environmental quality can be maintained only by individualized ecological management.

Just as nature has not been capable by itself of giving full expression to the potential diversity of our globe, likewise it is not capable of maintaining man-made environments in a healthy state. Now that so much of the world has been humanized, environmental health depends to a very large extent on human care. Forests must be managed, swampy areas which are under cultivation must continually be drained, the productivity of farmlands must be maintained by crop rotation, irrigation, fertilization, and destruction of weeds. From historical times, the Campagna Romana has been infested with mosquitoes and devastated by malaria every time men have lacked the stamina to control its marshes. Similarly, farmlands that have been economically productive and esthetically attractive for a thousand years are invaded by brush and weeds as soon as farmers neglect to cultivate them. The rapid degradation of abandoned gardens, farmlands, and pastures is evidence that humanized nature cannot long retain its quality without human care.

It is true that many ancient civilizations have ruined their environment and that a similar process is going on now in certain highly industrialized areas, but this is not inevitable. Intensive agriculture has been practiced for a thousand years in certain lands without decreasing their fertility or ruining their scenery. Man can create artificial environments from the wilderness and manage them in such a manner that they long remain ecologically stable, economically profitable, esthetically rewarding, and suited to his physical and mental health. The immense duration of certain man-made landscapes contributes a peculiar sense of tranquility to many parts of the Old World; it inspires confidence that mankind can act as steward of the earth for the sake of the future.

Lands could not remain fertile under intense cultivation unless managed according to sound ecological principles. In the past, these principles emerged empirically from practices that assured the maintenance of fairly high levels of humus in the soil. But scientific knowledge of soil composition and texture, of plant physiology, and of animal husbandry is providing a new basis for agricultural management. During the past century, the sound empirical practice of the past have been progressively replaced by more scientific ones, which include the use of artificial fertilizers and pesticides. Scientific agriculture has thus achieved enormous yields of plant and animal products. Furthermore, experimental studies have revealed that many types of lands can remain fertile for long periods of time without organic manure, provided they are continuously enriched with chemical fertilizers in amounts and compositions scientifically determined.

Efficiency, however, cannot be measured only in terms of agricultural yields. Another criterion is the amount of energy (measured in calories) required for the production of a given amount of food. And when scientific agriculture is judged on this basis its efficiency is often found to be very low. Paradoxical as this may sound, there are many situations in which the modern farmer spends more industrial calories than the food calories he recovers in the form of food. His caloric expenditure consists chiefly of gasoline for powering his equipment and of electricity for producing chemical fertilizers and pesticides—let alone the caloric input required to irrigate the land and to manufacture tractors, trucks, and the multifarious kinds of machines used in modern farming.

Needless to say, modern civilizations would be inconceivable if the energy (calories) now required by agriculture had to come from human muscles instead of from gasoline and electricity. But it is a fact, nevertheless, that if fossil fuels were to remain the most important source of power, the sheer size of the world population would make it impossible to continue for long the energy deficit spending on which agriculture depends in prosperous industrialized countries. And there would be no hope of extending these modern agricultural practices to the developing countries, which constitute the largest part of the world.

No matter how the situation is rationalized, the present practices of scientific agriculture are possible only as long as cheap sources of energy are available. After the world supplies of fossil fuels have been exhausted, the modern farmer, like the modern technologist, will become ineffective unless energy derived from nuclear reactions, geothermal sources or solar radiation can be supplied in immense amounts at low cost. Thus, the future of land management is intimately bound to the development of new sources of energy, as are all other aspects of human life.

Of the 70 to 100 billion people who have walked the surface of the earth since *Homo sapiens* acquired his biological identity, by very far the largest percentage have lived on the man-made lands that have been created since the agricultural revolution.

In every part of the world, the interplay between man and nature has commonly taken the form of a true symbiosis—namely a biological relationship which alters somewhat the two components of the symbiotic system in a way that is beneficial to both. Such transformations, achieved through symbiosis, account in large part for the immense diversity of places on earth and for the fitness between man and environment so commonly observed in areas that have been settled and have remained stable for long periods of time.

Furthermore, the reciprocal transformations of man and environment have generated a variety of situations, each with its own human and environmental characteristics. For example, the agricultural techniques, social policies, and behavioral patterns in the various islands of the South Pacific are determined not only by geologic and climatic factors but even more by the cultural attitudes of the early settlers—Polynesians, Melanesians, or Indonesians—and then later of the Western and Oriental people who colonized the islands. Cultural attitudes, more than natural conditions, are responsible for the profound differences between Fiji, Tahiti, and the Hawaiian islands. The Pacific Islands were initially settled by different groups of people and, in addition to these early human influences, they exhibit today the more recent influences respectively of their English, French, or American colonizers.

The shaping of nature by culture can be recognized in many other parts of the world. As the process of humanization of the earth continues, however, it will increasingly be influenced by the fact that most of the globe will soon be completely occupied and utilized. This colonization process began, of course, long before the days of modern technology. But the difference is that men now occupy and utilize all land areas except those that are too cold, too hot, too dry, too wet, too inaccessible or at too high an altitude for prolonged human habitation.

According to the United Nation's Food and Agricultural Organization, practically all the best lands are already farmed; future agricultural developments are more likely to result from intensification of management than from expansion into marginal lands. There probably will be some increase in forest utilization but, otherwise, land use will soon be stabilized. In fact, expansion into new lands has already come to an end in most developed countries and is likely to be completed within a very few decades in the rest of the world. A recent FAO report states the probable final date as 1985.

The U.N. Conference on the Human Environment, therefore, came at a critical time in man's history. Now that the whole earth has been explored and occupied, the new problem is to manage its resources. Careful management need not mean stagnation. In many places as already mentioned, the interplay between man and nature results in a creative symbiotic relationship that facilities evolutionary changes. Man continuously tries to derive from nature new satisfactions that go beyond his elementary biological needs—and he thereby gives expression to some of nature's potentialities that would remain unrecognized without his efforts.

Man has now succeeded in humanizing most of the earth's surface but, paradoxically, he is developing simultaneously a cult for wilderness. After having been for so long frightened by the primeval forest, he has come to realize that its eerie light evokes in him a mood of wonder that cannot be

experienced in an orchard or a garden. Likewise, he recognizes in the vastness of the ocean and in the endless ebb and flow of its waves a mystic quality not found in humanized environments. His response to the thunderous silence of deep canyons, the solitude of high mountains, the luminosity of the desert is the expression of an aspect of his fundamental being that is still in resonance with cosmic events.

As mentioned earlier, nature is not always a good guide for the manipulation of the forces that affect the daily life of man; but undisturbed Nature knows best—far better than ordinary human intelligence—how to make men aware of the cosmos and to create an atmosphere of harmony between him and the rest of creation.

Humanizing the earth thus implies much more than transforming the wilderness into agricultural lands, pleasure grounds, and healthy areas suitable for the growth of civilization. It also means preserving the kinds of wilderness where man can experience mysteries transcending his daily life, and also recapture direct awareness of the cosmic forces from which he emerged. It is obvious, however, that man spends his daily life not in the wilderness but in environments that he creates—in a man-made nature. Let me restate in conclusion my belief that by using scientific knowledge and ecological wisdom we can manage the earth so as to create environments which are ecologically stable, economically profitable, esthetically rewarding, and favorable to the continued growth of civilization.

THE CLUB OF ROME—THE NEW THRESHOLD

Mr. PELL. Mr. President, several years ago, a group of individuals from a variety of nations who shared a common concern about the future of our civilization and of our planet banded together to form the Club of Rome. I am proud to be a member of the organization.

The first major project sponsored by the Club of Rome was the construction of a world dynamics model by Prof. Dennis Meadows of MIT and an international team of scholars. The results of their study were contained in a volume called the Limits to Growth published a year ago.

Recently the club held a meeting outside Paris to discuss the "Limits to Growth" and the reaction it has stirred in the world community.

From that meeting, Mr. President, there issued a paper on the Club of Rome and its goals, prepared by the executive committee. The ideas and comments in this document, I believe, are sound and deserve the thoughtful consideration of all of us.

While there are some points with which all may not agree, I believe the general thrust and objectives of this paper is of vital interest and benefit to all mankind.

In the belief that my colleagues may wish to comment on this document, I ask unanimous consent that this document, entitled "The Club of Rome—The New Threshold," be inserted in the RECORD.

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

THE CLUB OF ROME—THE NEW THRESHOLD

The purpose of this note is to recapitulate the concern and convictions of the members of the Club with regard to the present state of world society, to assess the position reached by our initial efforts, to discuss the strengths and weaknesses inherent in the nature and concept of the Club and to enumerate some of the problem areas which we feel demand urgent investigation.

THE PREDICAMENT OF MANKIND

The initial impulse of the Club was a common concern regarding the deep crisis faced by humanity—a crisis which we feel is different in kind from those of the past and which the societies of today are ill-equipped to face with their present attitudes, values, policies and institutions. Men everywhere are preplexed by a range of elusive problems—deterioration of the environment, the crisis of institutions, bureaucratisation, uncontrolled urban spread, insecurity of employment and loss of satisfaction in work, the alienation of youth, questioning of the values of society, violence and disregard of law and order, educational irrelevance, inflation and monetary disruption in the face of material prosperity, the unbridged gap between rich and poor within and between nations—to mention only a few.

These difficulties appear to be world-wide symptoms of a general but as yet little understood malaise. It is this cluster of intertwined problems which we term *the Problematique*. Their interactions have become so basic and are so critical that it is ever more difficult to isolate from the tangle of the problematique single major issues and to deal with them separately. To attempt to do so only seems to increase the difficulties in other and often unsuspected parts of the mass.

For the same reason no nation, not even the biggest, can hope to solve all its own problems since these involve other nations and interact with the global system as a whole. Interdependence is not, however, restricted to the political context; it also regards to energy resources, food and industrial raw materials, markets for products, transfer of new technology, even the explosion of violence. Beyond these material concerns, the problematique is all-pervasive, because human aspirations can no longer be bounded by a particular environment or culture. What we term *the Predicament of Mankind* is our own limited perception of many individual symptoms of a profound illness of society for which we are unable to prescribe an effective remedy in the absence of a reliable diagnosis.

THE CLUB OF ROME AND ITS FUNCTIONS

The Club of Rome, an informal association of some eighty-five individuals in more than thirty countries, crystallised around a mutual concern with the problematique and the need to delineate it and understand its nature. The totality of the membership meets only occasionally, on average once a year, but most of the individual members are in frequent contact with their colleagues. The Club emerged, somewhat hesitantly, at the end of an exploratory meeting held at the Accademia dei Lincei in Rome in 1968. Most of the (then very few) members met again in Vienna in 1969 at the invitation of the Austrian Chancellor, while the full membership was convened to a meeting in Bern, Switzerland in 1970 as guests of the Swiss Confederation and in Montebello, Quebec in 1971 as the guests of Canada. A full meeting of the Club took place at Jouy-en-Josas near Paris in January 1973, made possible by French industry, while a further meeting will be held in Tokyo in October 1973, preceded by a Technical Seminar, both supported by the Japanese members of the Club.

Chartered under the laws of Switzerland, with a membership at present limited to 100, the work of the Club is carried out by an Executive Committee, whose membership is at present: Frits Böttcher, The Netherlands; Alexander King, OECD, Paris; Saburo Okita, Japan; Aurelio Peccei, Italy; Eduard Pestel, Federal Republic of Germany; Hugo Thiemann, Switzerland; Victor Urquidi, Mexico; Carroll Wilson, United States of America.

As an informal association, with a minimum secretariat and without any staff or formal budget, the functions of the Club were conceived as essentially catalytic. It has the following main objectives:

To stimulate research and encourage the development of methods to elucidate and delineate the elements and interactions within the problematique, to understand better the workings of the world as a finite system and to suggest alternative options for meeting critical needs;

To provoke a dialogue with political decision-makers, industrialists, academics and many groups in many places, to arouse appreciation of the nature of the crisis and the need to consider new policies, attitudes and courses of action to ensure the continuity of mankind and to cultivate a new humanism conducive to world peace, social justice and individual self-fulfilment.

THE INITIAL PHASE

After an initial period of intense discussion among the few, original members of the Club, it was agreed that concern with the world problematique was its central feature. A series of conversations was therefore begun with political and intellectual leaders in many parts of the world, but very soon it was realised that policy and institutional change could only result from a more precise understanding of its nature and interactions. It was decided to attempt, by any appropriate methods which might exist or be developed, to quantify the scale and time dimensions of the world problematique and seek to identify the needs for revision of values and institutions which govern man's capability to adapt to change. It was understood that this would entail extensive research effort in which is virtually a new and unexplored field.

After prolonged search for a methodology which would embody both the scale and time dimensions of the world problematique, it was decided to invite the Systems Dynamics Group at the Massachusetts Institute of Technology, under Professor Jay Forrester, to undertake the construction of a world dynamics model, and the Volkswagen Foundation of Germany agreed to provide the necessary financial support. An international team, led by Professor Dennis Meadows, was formed to carry out this work.

The findings of this first project are presented in a book, entitled *The Limits to Growth*, by Meadows and co-workers and containing a commentary by the members of the Executive Committee. Initially published in the United States on 6th March, 1972, at the initiative of Potomac Associates, The Club of Rome has arranged for editions to appear in some twenty languages. As to date, the American, British, French, Italian, Dutch, German, Japanese, Danish, Norwegian, Swedish and Spanish editions have appeared and have been widely distributed, attracting exceptional press comment and generating much controversy.

A Technical Report, *Dynamics of Growth in a Finite World*, describing the work done at MIT, is now available. It contains full details of the assumptions made and an exposition of each of the inputs into the model. *Toward Global Equilibrium: Collected Papers* is another volume of studies in depth of population, natural resources depletion and other key variables of the model. Both books can be obtained from Wright-Allen Press, 238 Main St., Cambridge, Mass., USA.

Important as the MIT report is as a pioneering entry into the new field of investigating the world problematique, it by no means represents the totality of the Club's concern and approach. Much new research into global, regional and national systems is required, as well as extension towards the

consideration of broader social and value issues and a penetration into some of the deeper problems of the human future. *The Limits to Growth* is not a statement of The Club of Rome credo, but a first hesitant step towards a new understanding of our world.

LIMITS TO GROWTH—INFLUENCE AND CRITICISM

It is difficult at this stage to assess the significance of the report. Reactions to the book, both positive and negative, have been remarkable, both in the United States and Europe and indicate that despite criticisms of its scientific accuracy and even its basic validity, it confirms the qualitative and intuitive conclusions of many. Many government departments and international organizations in different countries are discussing it and, in some cases, setting up models to test and extend it. Literally hundreds of conferences and seminars, round tables and public debates, television discussions and parliamentary questions have taken place on this subject. In several countries it has become a matter of party political controversy. It has been discussed by the boards of multinational corporations. It has become a matter of controversy between members of the Commission of the European Communities. An important *rencontre internationale* was organised in Paris by the French Minister of Finance, Monsieur Valéry Giscard d'Estaing, with the participation of leading world personalities with, as a key theme, 'where does growth bring us?'. It has been discussed by the Parliamentary Assembly of the Council of Europe. A paper prepared at the request of the Council of Eupore on *The Limits to Growth in Perspective* can be obtained by writing either to them or to The Club of Rome. In the paper a summary of the criticism is given in the form of 'point and counterpoint'. An interesting visual presentation of the ideas of The Club of Rome has been arranged in Rotterdam, in three beautiful and centrally located pavilions made available by the municipality. This exhibition was opened by the Queen in the presence of the Prime Minister and many other high officials. A more permanent and extended exhibition is now being planned. Most of the serious press, as well as the radio and television of many countries, have carried features on the growth issue or have taken sides in the debate.

Criticism of the report has come mainly from the traditional economists, from people who expect solutions to all the problems of the world from the cornucopia of science and technology and those who maintain that growth is an inbuilt characteristic of our system and that without growth, stagnation, decay and finally death will result. The reactions of the economists have been most violent and at times highly emotional, but there are signs in several places that many of the younger economists look upon the whole issue quite differently. Positive comments have come primarily from environmentally-oriented groups, political and social observers, and many of the commentators in the press, as well as from members of the general public.

It may be useful to comment on the nature of the main lines of criticism. Some of these are in fact criticisms of what the study does *not* set out to do. For example, both the work team and the Club stated clearly that it should not be regarded as a scenario for the future, but an analysis and projection of trends and their cross impacts to indicate the consequences of continuing with present attitudes and policies with the express purpose of inducing deliberate change in these attitudes and policies in order that the projected future shall never materialise. It is therefore a complete misunderstanding of the aims of the study to dismiss it on the grounds that projections of the future from the present are always falsified by time, by the appearance of new factors and discontinuities. The MIT model hopes indeed to pave the way for the introduction of such discontinuities, rather than to rely on the haphazard intervention of external events or natural catastrophe. Again, many berate the model for pretending to provide a basis for policy change, stressing as does the book itself that even, if current trends are true, they will never manifest themselves uniformly or simultaneously in the different environments of our heterogeneous world. This is true; the MIT model cannot in its present preliminary state provide a sure basis for policy change. It is, however, highly significant as a first attempt, crude and tentative as it may be, to look at the operation and interactions of a few of the more important and quantifiable variables of the world system. With our growing appreciation of the interdependence of peoples, such an approach, subject to validation, extension and refinement, provides a perspective against which regional or national systems can be studied and developed with a realism which can never emerge from approaches isolated from the current of global forces. We are, of course, fully aware of the need for studies of disaggregated projects within the world perspective.

We freely accept that there are many gaps and imperfections in *The Limits to Growth*, not at all surprising in a first pioneering attempt to probe into a new field of research. However, the book seems to us to be outstandingly important for three reasons:

It has been most timely and successful in focussing attention on essential problems which, irrespective of the validity of the detailed findings of the study, may determine the future of society, and in initiating a debate throughout the world on the dominant uncertainties of our times;

It has opened up a new field of extension of human knowledge, namely understanding of the operation of the world system as a whole, and in the process will inevitably have a considerable influence on the science of economics, despite current protests: some of the new approaches are mentioned below;

It gives a perspective and some base, albeit tentative, within which national efforts in science and technology can be reoriented towards the general well-being of our species.

UNDERSTANDING THE PROBLEMATIQUE—THE NEXT PHASE

As already said, the MIT research, while a magnificent pioneering effort, is only the first step in this important task of understanding the problematique, on which so much depends. It has already stimulated much new work, a few items of which are mentioned below. Members of the Executive Committee receive many communications from colleagues in different parts of the world, whether proposals for new research or requests for advice concerning the desirability of new approaches. It may be useful to summarize briefly a number of areas where, in the view of the Executive Committee, new research is urgently required, with indication of existing initiatives.

1. Refining, deepening, and extending the present model

There is an obvious need to reassess the validity and implications of the initial model, taking account of technical criticisms, new data and more accurate assumptions, as well as of adding new variables as and when these may become quantifiable. Professor Meadows, in his new location at Dartmouth, will no doubt be concerned with this. The Science Policy Unit of the University of Sussex, a British Government Department, the World Bank, a group of scientists at CERN and many others are attempting to repeat, modify or discredit the model. A Washington analyst, Michael Deutsch, is undertaking a thorough analysis of the MIT model and findings. We can only say that this will be an unending activity.

2. Disaggregations

It is evident that studies of a similar type, but confined to particular countries or regions, are required; and no doubt some of the above models will develop in this direction. A series of models of Japan as well as of world nonrenewable resources are in construction and one of West Germany in the enlarged European Community is contemplated by German scientists with a side study of the relationship of Europe to three large developing areas beset by serious population growth problems. Professor Timman of the Technical University, Delft, also intends to work on a project concerning a large area of the European Community where further growth may determine unmanageable crises. Such disaggregated models may well enable social and other factors to be taken into consideration and will throw light on the dependence of the industrialised countries on raw materials from abroad and particularly from the less developed countries. It is probable that many such national or sectoral models will be developed in the next few years.

3 New methodologies and steps toward practical action

Already many months before the appearance of the limits book, Professor M.D. Mesarovic of Case Western Reserve University in Cleveland, Ohio, and Professor E. Pestel of the Technological University of Hanover initiated a new research project entitled *Strategy for Survival* in order to provide a systemic policy instrument as an aid for the formulation of adaptive social, political and economic policies to combat the multivariant crises which are to be faced in different parts of the world in the coming years and decades. The decision tools to be developed by this project will be in the form of a set of interactive computer models which crisis-analysts and policymakers can use effectively. The thereby achieved provision for the heuristic uncertainty, impredictability and variability of human responses and actions is essential for an adequate realistic modelling of the dynamics of mankind's present situation and future development.

Hence, the construction of the model is based on the multilevel, hierarchical systems approach. In its present version the world model consists of seven interacting regions: (1) industrialised countries (free market), (2) industrialised socialist countries, (3) China, Mongolia, North-Korea, (4) Rest of Asia, (5) North Africa and Middle East oil countries, (6) Rest of Africa and (7) Latin America. Each of them is represented by a three-strata structure:

The causal stratum containing all processes whose future evolution is fully determined by internal dynamics, present conditions and external impulses. In addition to physical and ecological processes, the causal stratum contains other processes, for example, operational and short-term economic activities which through feedback-loops respond to immediate conditions and influences;

The decision-making stratum (goal seeking) representing the response of society and its institutions to everchanging crisis situations in an adaptive manner;

The norms-formulation stratum representing the values and needs which guide and constrain the goal-seeking processes.

In a recently completed Progress Report the feasibility of the project has already been demonstrated.

Even without the decision-making and norms-formulation stratum, the regional computer models, having been integrated into a single regionalised global model, will yield a deeper insight into the evolution of the *Predicament of Mankind* than was achieved by the limits model since it will indicate in a more realistic manner the time and nature of the specific different crises to be expected in the seven regions, and thus

will, even in this preliminary stage, provide a scenario for realistic political, economic and technological alternatives in the various regions and their regional and global impact. The first results of this study were demonstrated on the computer at the recent meeting at Jouy-en-Josas with particular reference to energy problems. Members of the Club were impressed by the real possibility which this approach provides of enabling policy analysts to dialogue with the computer, present policy makers with sets of options, and test the consequences of alternative decisions.

4. Problems of development (and economic justice)

To some the MIT report appears to be a somewhat technocratic, defensive and even politically reactionary manifestation of the fears of over-industrialised countries. This is far from the intention of its authors and of The Club of Rome—which takes no sectoral approach on behalf of the affluent, industrialized countries but is concerned with the world situation and the human condition in the total sense. The limits book, it is freely admitted, makes all too clear the plight of the developing countries within our closed system, but it does at least pose the problems in an inescapable manner. It is urgent, however, that in a more disaggregated approach to the world problematique particular attention be given to the problems of the less developed countries in the context of our finite planet. This is inherent in the Mesarovic/Pestel model. The scientists at CERN hope to follow separately the evolution of the rich and the poor parts of the world and find out whether the present world organisation and wealth distribution confirms or worsens the predictions of the MIT model. The need to study separately the economic and social pathos of highly industrialised and underdeveloped regions is all too obvious when one remembers (to quote Barbara Ward) that a child born in the United States is likely to consume 500 times more material resources than one in poor areas of Africa or India.

Following the seminar held by The Club of Rome at Rio de Janeiro in July 1971, a group of Latin American scientists decided to undertake a study of the world from the point of view of the developing countries. A project was elaborated and is now in operation at the Fundacion Bariloche in Argentina. This study, known as *The First Alternative World Model*, is being undertaken by a team from a number of different Latin American countries, led by Dr. Amilcar O. Herrera. The project will include a thorough analysis and criticism of the MIT model and its implications from the point of view of the less developed countries and will then proceed with the building of a new model. A basic feature of this will be the working out of a welfare index which should be a minimum reasonable and attainable birthright of every inhabitant of the earth. Growth hypotheses will be developed to see how such a level could be achieved in 30–50 years, how the economic gap which separates developed from underdeveloped countries could be eliminated and to determine the extent to which these objectives are compatible with the limitations of the ecosystem.

5. The world population problems

Rapid increase in world population, especially in regions already ill-favoured, appears to us to be at the centre of gravity of the problematique and we feel that the establishment of wise policies for the stabilisation of population levels and the technical and educational measures which must accompany them are of top priority. We particularly welcome the activities of the United Nations in this field, which will culminate in a World Population Conference in 1974.

Following discussion by representatives of the Club with Mr. Rafael Salas of the United Nations Population Fund, a grant has been authorized by the latter of El Colegio de México for a study of critical areas in the population field, in preparation for the debates which will take place during the United Nations Population Year. This study will be supervised directly by Victor Urquidi and be developed in cooperation with outstanding experts in various parts of the world.

However, while there may be reason to hope that as a result of wise policies, economic improvement and natural causes, the growth of world population will be slowing down by the end of the century, it is generally considered that a further doubling will be inevitable, probably within the next 30–40 years. A special study is therefore being elaborated under the general guidance of Professor Jan Tinbergen. The project, called *Population Doubling Problems*, will be led by Professor Hans Linnemann of Amsterdam Free University. This study (not strictly a model) will investigate the ways and means required to accommodate the second wave of inhabitants of our planet and then to supply them adequately and decently with food, goods and services, without impairing the natural and human ecology. Its objectives are thus rather similar to those of the Bariloche project. Since some parts of the world are already achieving a population equilibrium, while others are in an explosive phase, this project will have to be disaggregated. While essentially economic in concept, it will include special studies, particularly with regard to food production and the possibilities of alternative, non-traditional food sources. The project will also attempt to identify various alternative 'solutions' and policy instruments. Although the work will be based in the Netherlands, coordinated studies will be undertaken in other European countries, such as Sweden, Belgium, and elsewhere. It is hoped that a series of deep complementary studies of population trends, looking towards a global population strategy, will also be undertaken, concerned not only with total population increase but also its concentration in urban areas.

6. Another kind of growth

The research areas described above have already attracted scientific interest and work has begun. There are, however, a number of fields related to the problematique where, although many specialised studies are in progress, little comprehensive work is planned as yet. One of these is the growth process itself.

One of the most striking features of *The Limits to Growth* is the demonstration of the possibility of creating an equilibrium state for the world, which would depend on population stabilisation and an end to undirected economic growth as we conceive it today. To many, this seems a bleak possibility. Economists tend to regard continuous growth as an essential concomitant to the operation of our present system, both market economy and Marxist. It is abhorrent to the industrialised countries which count on further growth to provide the resources for social development through education, health care, urban improvement, etc. It is equally menacing to the developing countries who see, in the suggestion that growth should be slowed, the end of development aid and prospects of continuing poverty and misery. The whole question of the growth process requires urgent study as well as what might be the nature of a world equilibrium state. Following the March 1972 meeting at the Smithsonian Institution of Washington, the Woodrow Wilson International Center has started an important investigation into *Aspects of Sustainable Growth* taking into account many of the preoccupations of The Club of Rome. It will pay serious attention to "qualitative" elements of growth and endeavour to identify social as well as economic indices of welfare and to quantify diseconomies. Many other institutions and international organisations are, of course, also attempting to measure social as well as economic costs and benefits, and some progress can be expected in relation to the development of acceptable social indicators and national welfare indices to complement Gross National Product as a measure of growth.

The concept of an equilibrium state of no-growth is ill-defined and easily misunderstood. The term is generally conceived as one of a static equilibrium which conjures up images of inertia, decay and boredom. On the other hand, various types of dynamic equilibrium can be postulated which would make possible social, cultural and quality developments—certainly no less rich than the material products of the quantitative growth of today. There is great need for deep study of the nature of possible alternative systems in dynamic equilibrium, the development of growth indices which, unlike GNP, distinguish between the purely material aspects and the quality elements and even within the purely material aspects of economic growth itself, there are wide variants of possibility which might well permit desirable and sustained growth, tolerable within planetary limitations and free from the undesirable features of our present economy of consumption and waste. The institution of new growth forms would, of course, necessitate radical changes in both government and industrial policy and would further have to be derived from new socio-economic theory. It is not inconceivable that a new school of quality entrepreneurs will arise as agents of such change. It is to be hoped that the work of The Club of Rome will stimulate serious studies on all these matters in the very near future.

7. The new research imperative

The findings of the initial project and the general approach of The Club of Rome have much significance for science policy and for the reorientation of research. As already stated, the present crisis in society cannot just be blamed on technology and on the science which gave it birth. It is rather man's wisdom which has been lacking, his lack of sense of direction in his probing for new knowledge and the absence of control and management of technology.

The time has come for a fundamental reassessment of science and technology, their place in society and the promise which they offer for the future. At a meeting of Ministers of Science of the OECD Member countries held at the end of 1971, there was unanimous agreement that scientific research and technological development held great promise for the future but that research programmes would have to be reoriented profoundly, particularly in the direction of solving social problems. It was agreed that science could no longer be regarded as an autonomous area of policy but as one which would have to evolve in articulation with economic, social and other aspects of national and global policy. But herein lies the difficulty. It takes a period of upwards of ten years between the initial comprehension of a new scientific concept or of a new research discovery and the first appearance of its application as a product on the market or as a social innovation. If this research is developed in relation to current social or economic policy, its results will always tend to come too late. We are likely to see this happen with regard to the impending energy crisis—with petroleum products becoming scarce and costly, yet alternative sources, such as those from breeder reactors and nuclear fusion, still in the future, and research on coal gasification and the like, which has been relatively neglected in the years of oil supremacy, being resuscitated with crisis priority too late to provide a solution.

In the field of science and technology, therefore, the needs seem to be:

A reassessment of technological potentialities vis-a-vis the problematique, reorientation of effort in many new directions apart from defence, national prestige and economic growth—which have been the main goals and money sources of research in recent years;

The creation of more dynamic research structures and non-institutionalised methods, the serious cultivation of the multidisciplinary approach which the multivariant nature of the problematique demands, with corresponding changes in the educational system;

The development of new methodologies of long-term scientific planning in an economic and social perspective;

Considerable effort to tackle problems in the social and service sectors and of the achievement of innovation in such areas where the incentives of the market play little part;

The development of a range of technological software to attack problems of society and government;

Comprehensive work on the assessment of social and cultural as well as economic consequences of new technological processes and fields, to ensure that alternative paths of development are selected which can be socially acceptable;

Assessment of the energy requirements of the new processes which, through substitution, recycling of materials, etc. may provide alleviation and partial solutions;

Study of global problems, not only in terms of the models and approaches outlined above, but in relation to the total use of resources, exploration of marine possibilities of new energy sources, etc.; also the establishment of a world conservation centre;

The establishment of a world industrial bank to ensure that major new technological developments, which in the next generation are in any case likely to be beyond the possibilities of the individual firm and the individual country, are made possible for mankind as a whole, avoiding wasteful duplication;

In technology, special attention to the development of new approaches and systems appropriate to the needs of an equilibrium society, such as pollution-free processes and anti-pollution devices; efficient materials, recycling processes, work on lower grade materials, the evolving of efficient labour-intensive industries.

The Executive Committee has invited Professor Dennis Gabor, assisted by Professor Umberto Colombo and in cooperation with some of the scientist members of the Club, to explore the possibility of setting up a high-level scientific group to determine some of the scientific research priorities, problems requiring immediate attention and those of phased research planning, to attack some of the more vulnerable points of the problematique.

8. The lemming syndrome

Evidence seems to be accumulating that social unrest and individual dissatisfaction reach a crisis level in biological systems, including that of homo sapiens, well before food runs out and material arrangements begin to crumble. This is already noticeable in some areas of exceptionally high population and industrial density. The great increase in world population to be expected in the next few decades, as well as the migration to cities, which will be speeded up as demands for food intensify and require a high capital intensive agriculture, will give rise to huge urban conglomerations which will multiply the psychological effects of overcrowding and proximity. We know little about this problem in depth; indeed it is not certain that it is a real phenomenon. It is, therefore, important to begin work on it in case, as is not improbable, it proves to be a major agent of disruption and chaos.

9. Social problems—The value system and survival

We have already stressed the importance, within the problematique, of social elements and social symptoms and have indicated how these were necessarily excluded in the initial world model of MIT. Indeed, until there is a more sure development of social indicators, the inclusion of such factors is extremely difficult. The importance of including social factors and consequences, however, cannot be overstressed.

It is naturally easier to include social variables within disaggregated models of particular countries or regions with a certain degree of cultural homogeneity than it is in the global approach. We are particularly glad, therefore, that our Japanese colleagues have already started work on a model of their society in which these factors will dominate and in which the significance of recent social events will be included. Interesting also is the new *Dematel* (decision making and trial evaluation laboratory) project of the Battelle Institute of Geneva which is conducting a survey by an intensive modification of the Delphi approach, of the relative gravity and interconnections of the various elements of the problematique as seen by decision makers in many parts of the world.

Many of the manifestations of the problematique are already causing people, and especially the young, to question the validity of our present socio-economic philosophy. Others, such as Dennis Gabor, remark that our present civilisation is based materially on the solid foundation of scientific technology and 'spiritually on practically nothing'. Over centuries, our society has ostensibly operated, albeit somewhat hypocritically, on the Christian ethic of 'love thy neighbour' and the hope of future salvation. This has been tempered, it is true, especially in the Protestant countries, by acceptance of the virtues of hard work and the respectability of success. Nevertheless, it constituted a *raison d'etre* for the individual and society. More recently, socialism raised the standard for the creation of heaven on earth, of equity and human betterment—at times with the fervour of a true religion. However, as affluence increased and the rationalism of science prevailed, faith in the traditional religions faded and social reform as a result of its own successes has less allure and indeed its cultural, and institutional manifestations seem strangely dim. So we are left with our material successes gone sour on us and with little motivation or collective emotional drive towards worthwhile goals for our race. Our rational-material, neochristian system of values including those of individual freedom and human dignity are questioned, with little in the way of an evolving replacement. Many of those who question our present values most bitterly are merely destructive in their approach. The Tolstoy reaction of 'back to nature' becomes ever more unrealistic as population increases and technology dominates.

For reasons already explained, the study on limits to growth was unable to include the values problem. However, the debate on the problematique may well generate a new search which the social scientists, including the behaviourists, have hardly dared to tackle.

In the meantime, as the crisis mounts, we may have to adopt a supreme ethic of survival for the human race and in our decisions measure the possible effects of alternative actions in the light of their possible positive or negative influences on the probability of survival, and at the same time consider the extent to which the quest for quality of life can pave the way towards a new system of values.

10. Man and his destiny

These comments on the need for a new value system lead to questioning of whether we are not indeed facing a deep and basically biological crisis of the human species. Until recently, the average man, fully occupied with his struggle upwards from subsistence, had little time to think. He was tranquilised by the conventional religions, kept docile by "bread and circuses" and, despite many notable exceptions, left the basic problems to priests and philosophers. Towards the end of the last century, with the rise of the physical sciences, a wave of materialism and rationalism intervened and began to question the traditional tenets. Freud, Marx and a host of others deepened the questioning, but recognition of the Darwinist principle of natural selection seemed to provide some keys. Survival for the fittest, leading to the evolution or annihilation of species, gave a tangible, if vague, hope for the future. The secularisation of society and of its purpose has now spread, with education and affluence, until in the rich industrialised countries it is now generalised and has become one of the causes of the contemporary questioning of our values. It is also a cause of present-day violence and crime, of the alienation of individuals from their society and of general aimlessness. On the other hand, it leads the young to seek new forms of religious satisfaction, to experiment with mysticism, to seek new and heightened perception through drug-taking on the part of those who feel alienated and distrust rational scientific approaches.

Organic evolution in fact holds little promise for the further evolution of man; its processes are too slow in the face of man's potential for self-destruction. His societies will either disrupt or he will design his own betterment long before nature can evolve a higher from for him. In the last 2000 years, man has developed his physical power and increased his information base to an incredible extent, but there is little sign that he has increased his wisdom or spiritual capacity during that period. He is presumably ity during planetary species aware of his own predicament and with the potentiality of self-development, yet the very forces in his nature which have raised him above the animals weigh against deliberate self-evolution The struggle to survive has cultivated aggressive characteristics, vanity, greed, desire for power, etc., which are not the elements or which to build the wisdom he now requires On the other hand, men have learnt to cooperate with one another and live in societies—however fragile—accepting collective values, and objectives. Our destiny is in our own hands: how can we learn to achieve it?

11. Institutions and policy making

We return now to more concrete matters. There is a growing awareness by many governments of the inadequacy of their structures and policy-making methods to face up to the problematique as well as a growing need to broaden and localise participation in decision making. Most governments are organised through a vertical hierarchy devised to meet the needs of earlier simpler times and ill-suited to face the "horizontal" nature of so many of the problems they face. The machinery of government gives little importance to the staff function found to be so important by the military and the large business corporations. Most integrative decision is with the Prime Minister or Cabinet, although coordination and decision on a horizontal basis is ever more required at many levels. The increased span and scale of governmental responsibility have multiplied the size and power of the bureaucracy which even at its most intelligent has the function of ensuring stability and continuity, and hence is inevitably resistant to change. Adjustment to rapidly changing events is thus inherently difficult. A further major difficulty arises from the four to five-year cycle of parliamentary elections in the democracies which, with the need for election or re-election, forces all political parties to concentrate on short-term issues which are the subject of public concern. This mattered little until recently when long-term problems ripened slowly. With

present rapid rates of change—and of public perception of change, political, economic, social and technological—the so-called long-term often becomes actualised in five to ten years, that is in the next administration. This has the consequence of the recurrent emergency, of crisis management, and the ineffective handling, for example, of monetary problems, inflation, balance of payments difficulties, educational reform, etc., met all too often by instituting measures which are superficial and merely palliative, while avoiding the fundamental causes which lie within the problematique.

These are but a few of the difficulties of governments in facing complexity. They are leading to structural experiment and innovation, to the creation of "think tanks" and of centres for the study of alternative strategies and policies. There is need for much more intensive research on the policy-making process and for confrontation of experience if the problematique is to be coped with.

12. The political consequences

It is premature to discuss the political consequences of the type of situation which may arise if the tendencies of the MIT report are even approximately true. Abandonment of growth as a main objective and the evolution of new policies toward a dynamic equilibrium and quality of life runs counter to many of the principles inherent in both capitalism and Marxism. Among other consequences, the slowing down of growth would greatly accentuate our present problems concerning the distribution of wealth and also the posture and objectives of industry. Intrinsically, *The Limits to Growth* is a profoundly revolutionary document, not in the strict political sense, but through *la force des choses*. The Club of Rome is convinced that change is necessary and indeed inevitable but would not at this stage wish to take a political position. We do feel, however, that there is urgent need for all political parties and ideologies to analyse the political consequences of its message and for scholars to begin to consider the possible alternatives.

REASSESSMENT OF OBJECTIVES

The recent meeting of the Club in France—the first to be held since the publication of the MIT report—provided a useful occasion for members to reconsider its objectives and methods as well as for review of current activities and discussion of problem areas concerned with the problematique which demand immediate attention. The widespread public and political interest which the report has evoked, together with the extent of controversy has, quite naturally, identified The Club of Rome too exclusively with this first project. It is not generally recognised that "Limits" is a report *to* the Club, of the first major research which it has sponsored. It is not a report *of* The Club of Rome. An erroneous image of the Club has, therefore, formed as a group advocating zero growth. Again, the possible consequences of unregulated growth of the industrialised societies and, still more, those which would arise if growth were abruptly brought to a halt, has disturbed some of the less developed countries where, we have already said, the report is all too easily seen as a selfish proposal from the developed world which would still further aggravate the difficulties of the great mass of underprivileged on our planet.

Without in any way lowering our appreciation of the MIT team work, or our conviction of the reality and urgency of its warnings, the members of the Club recognised that it is a beginning and not an end and restated their concern for the wider aspects of the problematique. In particular it was agreed that The Club of Rome is:

Not a group of advocates of zero growth, although we feel strongly that the nature, tendencies, qualities and consequences of growth require deep and continued analysis and discussion;

Not a club exclusively devoted to problems of industrial societies, attempting to find solutions to the difficulties of affluence, but a group concerned with the world system as a whole and with the disparities which it includes;

Not a group of futurologists, but of individuals who realise the necessity of attacking, now, longer-term and fundamental problems which are difficult to approach with our present methods of government and which could give rise to irreversible situations;

Not a political organisation, either of the right or of the left, but a free assembly of individuals seeking to find a more objective and comprehensive basis for policy making;

Not a body devoted to public propaganda for change—although, should we succeed in better delineation of the elements of the problematique, we are convinced that our results should be made known universally through appropriate national and international organisations and media.

Having stated, therefore, what The Club of Rome is not, we reaffirm our role as a group of world citizens, sharing a common concern for the future of humanity and acting merely as a catalyst to stimulate public debate, to sponsor investigations and analyses of the problematique and to bring these to the attention of decision makers. To undertake such tasks, the Club must remain small, but not detached from public contact or become elitist. It should remain a club or non-organisation if it is to be quickly effective; should resist attempts to organise more formally with all the bureaucratic rigidities and lack of tempo which this might entail; and remain free from political affiliation.

Thus the concept of the Club as a non-organisation remains; its essentially catalytic function is its main asset which would be frittered away were it to accept continuing service or public relations functions which demand organisation, budgets and a full-time staff. At a recent meeting, the Executive Committee discussed whether the Club, having achieved its initial aims of generating the debate, securing some understanding of the nature and magnitude of the problematique, and having helped to open the door to the investigation of the workings of the world system, should not now disappear. We felt this to be premature, but we do think that it is a question which we should raise from time to time. There is still a need for a concerned but politically uncommitted group to raise questions and stimulate new studies. How then should our role be developed?

We feel that our task is essentially that of questioning, of formulating and delineating problems and of preparing for decision makers elements of information and experience as well as alternatives which will help them in making their decisions. Our function is advisory and not executive: we should be prepared to establish relations with decision makers similar to those of operational research units, providing alternative bases for decision, but never aspiring to the decision-making process ourselves. We may, of course, decide later to suggest alternative policies but not to indulge in political advocacy.

We do feel, however, that there is need for an equivalent of The Club of Rome at political level for senior ministers to meet from time to time—not to negotiate but to compare their experience with regard to future planning and their success and failure in facing up to the complex of problems with which the Club is concerned. This is the concept which we term *The World Forum*.

With its limited resources—particularly the time of its members—the Club is obviously unable to mount major campaigns of public debate and information on the problematique, although we regard it as important that this should be done. Our first project, having attracted so much attention in the press and on television, has ensured that this need is in fact being met spontaneously. Particularly encouraging has been the formation of national Club of Rome groups in Japan and the Netherlands. These groups, while in close touch with the Club itself, are completely autonomous and nationally based. We hope to see the arising of similar movements in some other countries such as Sweden, Denmark and Belgium and we hope that there can be spontaneous meetings of members of the Club within particular countries to that end. It is particularly to be hoped that, around Club of Rome projects, groups in which non-members of the Club can participate actively will form and operate across national frontiers. We are also on friendly relations with a number of national and international groups with objectives akin to our own such as the International Federation of Institutes for Advanced Study (IFIAS), the European Cultural Foundation, the World Law Fund, l'Institut de la Vie, le Groupe des Dix, and many others. A number of other associations—both national and international—are also in existence and pursuing aims similar to our own in a rational and purposeful manner. We shall seek contact and complementarity in our work with theirs.

And we hope that this paper will elicit interest, observations and suggestions from many more quarters.

THE INFLUENCE OF INTERNATIONAL FACTORS ON DOMESTIC PETROLEUM EXPLORATION

Mr. STEVENS. Mr. President, yesterday, March 19, 1973, Mr. Michael T. Halbouty gave an address on the "Influence of International Factors on Domestic Petroleum Exploration" before the Cosmos Club in Washington, D.C. This address traced the history of international exploration for oil since Colonel Drake discovered his famous well in 1859 in Pennsylvania. This address discussed the complex historical factors influencing the present international oil situation.

Our present energy crisis is critical. Domestic consumption is 16 million barrels per day. Domestic production is 11 million barrels per day. This requires the importation of 5 million barrels per day.

Back in 1956–58 15,000 independents were producing. Now there are less than 3,500. Independents, I am informed, have found 80 to 85 percent of the major discoveries in this country. The free enterprise system has permitted the United States to take the lead in oil exploration and development. At this critical time in our history, it is imperative that we continue to encourage the development of our domestic oil supplies.

But to do so, we will have to keep in mind the international historical factors which have created the present state of affairs.

I request unanimous consent that the address by Mr. Halbouty be printed at this point in the RECORD in its entirety.

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

THE INFLUENCE OF INTERNATIONAL FACTORS ON DOMESTIC PETROLEUM EXPLORATION

(By Michel T. Halbouty)[1]

PRE-INTRODUCTION

Domestic exploration has been declining for nearly two decades and, today, it is the

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Footnotes at end of article.

lowest in our history. This, in turn, has resulted in an energy crunch—or more seriously speaking—a pending energy crisis.

Many people, lately, in various capacities, have given their reasons for this dilemma in which this nation finds itself, and it is interesting to note that the major important factor—international developments—has not received and does not receive its due and proper consideration.

So, in order to present this address in proper perspective, I decided to go back to August 27, 1859, which is the discovery date of the famous Drake well, near Titusville, Pennsylvania, which marked the beginning of the petroleum industry in the world as we know it today, and to trace what has happened in international petroleum affairs from that date to the present—a time span of 115 years. The profound effect, that these affairs had on domestic petroleum exploration during hot-wars, cold-wars, and in-between floating periods of peace, is indeed remarkable.

What I have just stated to you is really a pre-introduction to the introduction. Now, I intend to go into the introduction of the presentation and then to the paper itself.

INTRODUCTION

There was a headline over a story in the Wall Street Journal on December 26, 1967, which read: "USSR Gets Foothold in Mideast Oil Output by Agreeing to Help Iraq to Develop Resources." [2]

The story went on to point out that the Soviets had achieved a breakthrough in access to Middle East petroleum. It added that the Russians had been given the right to explore and develop two important areas of Iraq, including the 32,000 square mile Rumailia district of southern Iraq on the Kuwait border.

Prior to 1960, this area had been held by the Iraq Petroleum Company, owned by a consortium of American, British, French, and Dutch interests.

This acquisition of Iraqi territory for petroleum exploration was the master stroke of a half-century of patient, persistent, and determined effort by the Communists to gain such a dominant foothold in Middle East oil. In this effort, the Soviets' planned program had included the Suez crisis of 1956–57 and the six-day Arab-Israeli war of 1967.

Last year the properties of the Iraq Petroleum Company were seized and nationalized by the Iraqi government which was the final step in a campaign which has been encouraged by the Communists and which now places them in a strong position in one of the important Middle East producing countries for the first time.

The Russians believe today, as they have believed since the establishment of the Soviet Union, that petroleum is the way to conquer the world.

Probably the most challenging question of the atomic age is, "What can the free world do about it?"

It is obvious that through the Arabs, the Soviets eventually intend to take over all of the oil holdings of the Middle East and northern Africa. With that control of petroleum, they will woo and probably eventually win most of Western Europe and much of Asia. The ultimate goal, of course, is the world.

For one to thoroughly comprehend the meaning of what I have just stated in the introductions, it is now necessary to understand the background which created the plight which faces this nation and all other petroleum "have-not" nations of the world.

EARLY PETROLEUM HISTORY

Since the day Colonel Drake brought in his famous well in western Pennsylvania in 1859, international factors have influenced domestic exploration in this country.

The Civil War

The Civil War, which started less than two years after that momentous discovery, is a good example. The Union was able to offset its world cotton trade loss with oil shipments. In fact, exports far exceeded domestic use of oil throughout the war. The war also received a great financial assist for the North through a $1 per barrel tax on oil for the duration. Oil also helped keep northern industry operating at a high level.

This condition led to constant exploration for more petroleum during the Civil War and a stepped-up program immediately after the war.

LIMITATIONS AND DECLINE OF U.S. SUPPLIES

Between 1859 and 1874 this country provided 90 percent of the world's oil. Between 1874 and 1883 our production was never less than 80 percent of the world total. In 1884, when the Baku fields in Russia started producing, this dominance began to dwindle. In fact, between 1898 and 1901 Russia was the world's leading oil producer. Spindletop, and the fields that followed it in the southwest, returned the United States to oil leadership in 1902. By 1914, the first year of World War I, the United States was producing five times as much oil as Russia.

International importance of petroleum

In the meantime, several international factors had come about to influence a stepped-up demand for oil exploration in this country. One factor was the dual recognition by the British that (1) oil was necessary to the operation of their navy, and (2) their navy was the backbone of the British Empire's world power leadership.

Of course, the United States and other navies of the world, as well as merchant marine units, had also started converting to oil. As early as 1916, the President of the Board of Trade in England told the House of Commons that England had to secure control of the world's supply of oil. In that year, the United States was producing 777,000 barrels of the world's 1.18 million barrels of oil daily, or approximately 66 percent.

Those were the days of repeated feast and famine in the domestic industry, variations that are the reason foreign countries were unable completely to rely on American oil. In order to safeguard their needs, British, Dutch and French companies were beginning to explore in the Middle East, Mexico, Venezuela, Colombia, and the Far East.

The seeds of oil policy problems, both national and international, were sown largely during the period between 1910–1916. American oil companies first started searching for oil on a worldwide basis in order to supplement and protect their foreign markets.

In the early 1910s, American oil companies received a considerable setback when the State Department served notice that all American nationals in alien countries would have to go on their own. This policy meant that Americans in countries such as Venezuela were left without government support behind them, and resulted in many valuable foreign oil properties passing into the hands of the British and the Dutch. The fact is that when World War I started in 1914, Americans were producing oil in only two foreign countries—Mexico and Rumania. Dependence of other countries on the United States for petroleum kept exploration activities at a very high level in this country.

It was World War I, incidentally which created the long prevailing Mid-East problem. The tremendous potential for discovery and development there created a rivalry between the great powers in their search for oil independence.

It was during the period of 1911–1914 that the British first recognized that they could not drive their ships at the desired 25 knots with any fuel except oil. Therefore, on July 17, 1913, Winston Churchill announced the British oil policy to acquire its own supply from sources under British control or influence. At that time, the Germans, French, Dutch, and Russians were entertaining similar thoughts. So that was the beginning of the departure of other countries from dependence on the United States for petroleum.

An example of the unreliability of United States' supply occurred in 1912 when this country was suffering one of its oil famines, which was ended abruptly by the discovery of Cushing Field in Oklahoma. Cushing established Oklahoma as the premier oil state and dropped crude prices from $1.05 to 55 cents per barrel. Within less than a year, Cushing began to decline and this country was in another state of oil famine, which proved the point that Churchill had brought out so eloquently: England, as well as other countries had to have its own supplies of petroleum; none could depend on supplies from the United States.

ERA DURING AND IMMEDIATELY AFTER WORLD WAR I

Drain on U.S. reserves

By the time we entered World War I in April 1917, petroleum had become "indispensable" to the world's activities, and a worldwide interest in exploration developed.

Despite its unreliability as a source of supply, this country provided for the Allies 90 million barrels of oil, or virtually all of the oil used in land, sea, and air operations in World War I.

During that war, the world was first warned by the *Petroleum World* of London that there was an impending shortage of petroleum.

Wide international interest in oil brought new interest in exploration for oil. The demand brought prices which attracted new risk capital in this country. Gasoline, in which sold for 13 cents per gallon in 1914, had doubled in price by May of 1917, and there were persistent rumors that these prices would go as high as 40 cents per gallon.

Fear of "running out of oil"

In the United States the shortage was acute. A. C. Bedford, President of Standard Oil Company of New Jersey, was appealing to every oil producer in the country to seek the utmost possible output of crude oil. He called such output a patriotic duty, adding "Frankly, there is no shortage of oil, simply a shortage of effort to get it out of the ground." [3]

As a result of pleas by Woodrow Wilson, the President of the United States, and Bedford, oil production was stepped up by almost 100,000 barrels per day which was actually a little more than one-tenth of production in that year. After the United States entered the war in 1918, and the demand for oil became virtually impossible to meet, the price of crude had advanced to $2.25 per barrel, up from $1.40, adding great stimulus to exploration.

After World War I, and during the period from 1919–1923, there were severe worldwide oil shortage scares which resulted in increased activity in all foreign fields in the search for oil.

It was during this period that Secretary of Commerce Herbert Hoover called leading oil company executives to Washington and told them to "get out and find some oil." He said that if we had to depend upon foreign sources, our own American companies should lead the exploration.

Britain and Holland were already strong in Mexico and had the cream of the concessions in Venezuela—thanks to the United States nonprotection policy which was established just before World War I.

United States shut out of foreign exploration

Although the United States was still supplying 72 percent of world production, American companies were excluded from oil rights in many countries, notably in the Middle East mandated nations through the

Footnotes at end of article.

San Remo Oil Agreement. The San Remo agreement was signed April 24, 1920, and under its terms, the British and French divided between themselves all the Middle East oil. The agreement barred the United States from participation.

U.S. Government urges American companies to foreign exploration

When this secret pact between our recent war allies was exposed, the United States Government adopted a hard petroleum open-door policy. Smarting under this snub from its two recent allies, the United States gave a strong shove to American companies to embark on petroleum expeditions all over the world.

American geologists became active in virtually every country believed to be favorable to oil. It may be interesting to note that, even today, much of the available knowledge of world-wide prospects in many undeveloped regions is contained in major company files as a result of this far-flung activity of the early 20s.

Rise of domestic demand and shortage scare

About this time, Navy Secretary Josephus Daniels went into a panic. He feared that the navy would run out of oil and America's first line of defense would be imperiled. He started a campaign for Government control and nationalization of oil, with the Shipping Board and the Department of Interior supporting his position.

These foreign forays, heavy imports from Mexico, and pleas for nationalization temporarily again dried up venture capital in this country and caused a drastic decline in exploration activity.

Also, at this time, Mexico's famous "golden lane" gushers started going to salt water, thereby dampening the pleas of independent producers for an oil import tariff.

Suddenly, because of this worldwide oil shortage scare, wildcat activity in this country picked up and, again, there was over production at home. Also, the British and the Dutch were increasing production steadily, despite the loss of their Russian properties shortly after the end of the war. They were highly active in Western Hemisphere development. It is interesting to note that although Russia expropriated all foreign oil interests under the new Bolshevik regime, Russia reached a low of 9.6 percent of world production.

At home, Dr. Van H. Manning, Director of the Bureau of Mines, was saying that within the next two to five years the oil fields in this country would reach their maximum production and from that time on, we would face an ever-increasing decline.

This caused the Council of National Defense, composed of most of the members of the President's cabinet, to advocate Government acquisition of Indian lands, with exploration for oil under Government control.

George Otis Smith, Director of the Geological Survey, warned that the United States would be out of oil in eighteen years, while the rest of the world would have an ample supply for the next fifty years. He said that in eighteen years this country would have to depend upon foreign sources or use less oil.

Professor Harold Hibbart of Yale University, in a talk before the American Chemical Society, said that our supply of crude oil would be entirely exhausted within thirteen years and that there was no solution in sight. He said he felt confident, however, that chemists would eventually solve this problem through painstaking research. I think it is interesting to note that crystal balls were not much better then than they are today.

Federal control of the industry was strongly advocated. It is likely that a national petroleum would have been authorized had not Wilson's Secretary of State, Bainbridge Colby, warned that foreign nations would refuse such a company the right to carry on business either in their countries or in countries under their influence.

Entry into Middle East

In order to impress the British and French with this country's' determination to have an open-door policy in the Middle East, the United States Government threatened to place an oil embargo on any country discriminating against American oil interests.

On January 19, 1921, the *Financial Times* was able to say: "It is now clear that the French government, like the British, aims at non-monopoly of the oil business. The policy of the open-door is to be adopted and as a result, the Royal Dutch group will be in a position to obtain concession from the French government." [4]

This was the first approach to the famous Red Line Agreement [5] which was consummated on July 31, 1928, with the organization of the Turkish Petroleum Company, which was composed of Anglo-Persian Oil Company, Royal Dutch-Shell Company, Compagnie-Francaise des Petroles, and Near East Development Company, each with 23.75 percent ownership, and Calouste Gulbenkian with the other 5 percent. It limited activities of the participants to specified Middle Eastern areas marked out by a red line on the map—hence it was referred to as the Red Line Agreement.

Toward the end of 1922, Sir Edward Mackay Edgar, British financier and industrialist, was telling his people that American demand for oil was so insatiable that a worldwide shortage was inevitable. "As for oil," he said, "America has already reached the importing stage. Our business, as Britons, is to sit tight on what we have and export all the oil, cotton, and metal possibilities in the non-American world. In that way, we shall do more than safeguard our position. We shall be able to supply America." [6]

OVERSUPPLY IN UNITED STATES

This statement by Sir Edward promoted the so-called John Bull scare. But the "John Bull scare" was drowned in a flood of oil by November 4, 1923. The ink was hardly dry on Senator LaFollette's report predicting that gasoline would go to $1 a gallon when successive discoveries in the Los Angeles Basin, at Elk Hills, Huntington Beach, and Santa Fe Springs, not only counteracted the decline of Mexico's "golden lane" fields, but, added to the discoveries at Hewitt, Tonkawa, and Burbank in Oklahoma, Smackover in Arkansas, and Big Lake in Texas, pushed the price of crude down from $2 per barrel in February to $1 in November. At the same time, gasoline fell from 21 to 13 cents a gallon.

These incidents also served to relax tensions between this country and its former allies. President Coolidge rescinded the exclusion of Roxanna Petroleum Company, which was controlled by Shell, from Indian lands in the United States.

And in 1928, by virtue of the terms of the Red Line Agreement and through a strong State Department determination to have American companies gain a foothold in the Middle East, the Near East Development Corporation, composed of five major American companies, gained a 23.75 percent interest in the Iraq Petroleum Corporation.

The period of 1929–1935 was concerned largely with the great depression in this country and efforts to bring about petroleum conservation. A phase of this conservation movement was the effort to establish worldwide proration on crude oil production.

The Federal Oil Conservation Board was stressing the international aspect of overproduction, and the API Committee on World Production and Consumption of Petroleum worked out a plan on the subject for its Board. The whole idea was killed when the Attorney General ruled that Americans would not participate.

Worry over worldwide petroleum supplies temporarily faded again into the background with the first giant discoveries in Venezuela and the East Texas field. These were the world's first million-barrel fields.

Independent agitation for import restrictions

In 1930, the Independent Petroleum Association of America (IPAA) was formed in Tulsa for the express purpose of working on the tariff on petroleum imports. The organization credited the new oil surplus in this country to imports from foreign fields.

International companies immediately began to voluntarily curtail imports in fear of the tariff or even a total embargo on foreign oil imports. In June 1932, an excise tax of 21 cents per barrel on foreign crude and $1.05 per barrel on gasoline went into effect.

WORLD WAR II AND POSTWAR YEARS

As World War II approached, oil took on a growing importance in international affairs. Germany, realizing it would probably be cut off from oil in the war it was planning, started the development of liquid fuel from coal. To a lesser extent, similar experiments were underway in England, France, and Belgium.

France developed a process of substituting alcohol for motor fuel through the restriction of petroleum imports and subsidies to grain producers. Rumania, which at one time sold oil all over Europe, was increasingly confining its markets to German and Italian outlets. By 1938, Mexico had expropriated foreign oil properties as Bolivia had done a year earlier, and other South American countries began to organize government-owned oil companies.

In the United States, domestic oil was flooding the market. In Bahrain, Saudi Arabia, and Kuwait, American oil companies were making sensational strikes.

Despite all of this, when the United States entered the war on December 7, 1941, petroleum was one of the few American industries prepared for the emergency. The industry was called upon to supply the bulk of the 100-octane gasoline, toluene, aviation lubricants, synthetic rubber materials, and other critical products.

Almost immediately after Pearl Harbor, the transportation bottleneck for petroleum shipments to the east coast became acute because of intensified German submarine activity.

The proposal to build the "Big Inch" and "Little Inch" pipelines brought on a genuine shortage scare for petroleum. In the Senate of the United States, there were cries that the British were not making oil available to the United Nations from Middle East sources.

In 1943, the Petroleum Reserve Corporation was formed for the purpose of putting the Government in the pipeline business to transport American oil from Saudi Arabia to the Mediterranean coast. The charter of this government corporation provided also for the building of refineries in foreign countries, and other activities.

It was again evident that the intent was for the United States Government to go directly into the foreign oil business. This brought about immediate and strong protest from the oil industry and precipitated the "great debate" on domestic oil policy.

It is interesting here to note that President Wilson's Secretary of State, Bainbridge Colby, who attacked the first attempts to nationalize the oil industry, came out of retirement to effectively attack this new attempt.

Oil Administrator Secretary Ickes, campaigning for the Government-built trans-Arabian pipeline, reviewed the old campaign, declaring, "We are running out of oil." The President, the Joint Chiefs of Staff, the Secre-

Footnotes at end of article.

tary of the Navy, and the Secretary of War all joined in the chorus.

Eventually, Secretary Ickes' Petroleum Reserve Corporation project was killed by the National Oil Policy Committee. It is ironic to note that Ickes had appointed this committee (composed largely of oil men) to support him in his position.

Anglo-American treaty

The next step by Oil Administrator Ickes was an effort to bring about an Anglo-American oil agreement covering the Middle East and other foreign countries. This he did with the full blessing of the State Department.

In the meantime, in this country, the oil industry was hampered by an OPA price on oil and products, as well as a low priority for steel and steel products. In the meantime, tremendous oil discoveries were being revealed in the Middle East by the United States Petroleum Mission. Steel had been made available for the building of the trans-Arabian pipeline to deliver Texas Company and Standard of California oil to the Mediterranean.

The Anglo-American Treaty fight was to continue until well after the end of the war. In the midst of all of these debates, rationing of oil products, and strangulation by OPA, this country was supplying by far the greatest amount of oil to execute the war.

In the closing stages of the war, Soviet Russia was already making an attempt to secure oil concessions in Iran, but that country refused on the grounds that the Iranian public would consider that they had been granted under duress with foreign troops stationed in their country. Iran was backed by both the United States and Great Britain, and this issue threatened to grow into a Big Three crisis.

The issue actually was called a proving ground of allied oil policy, and the editor of one oil trade journal in this country viewed the situation as "a display of pressure politics by the Soviet government against foreign governments, possibly leading to serious activities for American oil companies now operating in the Near East." [7]

This, then, is the birth of the recent troubles in the Middle East, which erupted first with the Suez crisis, then with the Israeli-Arab war, and which led to the news story quoted earlier.

It seems obvious in looking back now that the international factors in which the domestic oil industry found itself in World War II were serious. The United States Government consistently refused to grant crude oil price increases and steel necessary to stimulate seriously needed wildcat drilling. It seems that the Government was deliberately trying to keep domestic exploration down while promoting Middle East oil development, despite the relative danger of take-over by the enemy.

At the same time, the Government was squandering good money promoting a synthetic fuel program, which failed; also the ill-fated army Canol project in Canada, and was keeping the lid on the Elks Hills Naval Reserves No. 1. In spite of this, it is to the remarkable credit of the domestic industry that production increased from 3.842 million barrels per day in 1941 to 4.695 million barrels per day in 1945.

As World War II ended, it was obvious that the world had for the first time in history become oil-conscious, far more so than after the first World War.

Soviet Russia recognizing the high strategic importance of oil, started occupying or taking over country after country in eastern Europe, including Rumania, Poland, Hungary, part of Austria, Yugoslavia, and Czechoslovakia, all-oil-producing countries, perpetrating a gigantic oil grab.

Footnotes at end of article.

Russia prolonged the stay of her troops in Iran, then the largest oil producing country in the Middle East, precipitating the first United Nations crisis and thereby launching the cold war.

In the aftermath of World War II, the Truman Doctrine, the Marshall Plan, the Korean war, and the North Atlantic Treaty Organization were all part of an era of emergency. Each of them involved petroleum supply, refinery, pipeline, and marketing considerations that would, sooner or later, have significant influence on exploration in the United States.

Oil shortage of 1947–1948

So the United States, in the years immediately after World War II, faced the "cold war oil scare," which resembled to some extent the John Bull oil scare that followed World War I.

The State Department began attempts to revive the stalemated Anglo-American Oil Treaty, supported by the Joint Chiefs of Staff and members of the Army-Navy Petroleum Board. Attention was called to the fact that "Russia threatens Middle East oil," and Secretary of the Interior Krug revised the old "United States scarcity-foreign plenty" approach.

Although OPA price ceiling for controls was removed late in 1946, and, by the end of the year, crude prices had reached a fifteen-year high and domestic production and exploration were in high gear, the Marshall Plan backers in Congress suggested a Government policy aimed at saving domestic oil and drawing on Middle East oil as much as possible. Following that policy, of course, would have destroyed our domestic exploration and eliminated the independent.

Post-World War II demand in this country was little short of phenomenal. The Army-Navy Petroleum Board testified that the military services faced an acute shortage of aviation gasoline.

In spite of this, oil shipments were going to Russia, but criticism caused the Office of International Trade to reinstitute war-time controls on oil exports.

Behind all of this, it was obvious that the Government was promoting the Anglo-American Treaty which was actually already doomed.

Great expansion was going on in Venezuela and the Middle East.

The Red Line Agreement was almost quietly dissolved and the 50–50 profit sharing plan was initiated in Venezuela and spread to the Middle East. This increase in payments ended the honeymoon between the foreign countries and American companies.

"Sowing the petroleum" policy in Venezuela was announced as a plan to plow oil royalties and taxes back into public improvements, which was another method to milk more from the American companies. All of this had a slowing effect on domestic exploration. A series of situations, conditions, and events made things even worse.

IMPORTS AND CRISIS

In 1948, the United States lost its tremendous advantage of being a net oil exporter with the reversal of the historical west-to-east oil flow.

Korean war

In 1950, the outbreak of the Korean war created a new oil emergency, and exploration picked up rapidly, with great success.

Oil crisis in Iran-nationalization

In 1951, Premier Mossedegh nationalized Iranian oil. This constituted a serious threat to Korean oil supply, to NATO, and to the success of the Marshall Plan. This, too, was Soviet inspired, but the Foreign Petroleum Supply Committee's plan of action averted impending disaster.

Meanwhile, back home in 1952, the Select Senate Committee on Small Business released a staff report of the Federal Trade Commission titled "The International Petroleum Cartel," which had previously been classified, to stir up dissension and cast new suspicions on the vital oil industry. Huge foreign demand following on the heels of European recovery brought on a temporary supply problem.

In 1954, the Iranian oil consortium was formed with the backing of the State Department, and that was taken as an indication of the vital importance of Middle East oil to the free world. At about the same time, Americans moved into other areas of the Middle East, Africa, and South America in what has been described as the greatest search for oil in history.

This search inspired an editorial in one of this country's leading trade journals, which indicated that oil may lead to world freedom.

The editorial stated:

"The rapid, widespread expansion of American free enteprise oil operations over a huge portion of the globe may provide multitudes of people with greatly improved living conditions and thereby build a formidable barrier against the spread of Communism." [8]

We all probably felt like that. What we didn't realize, I am certain, was that Communism would be attracted to those areas of development in the Middle East and Africa.

This is all prologue to the two great crises that lay ahead in the Middle East, each of which would have profound influence over the pattern of domestic exploration.

Suez crisis

On July 26, 1956, one of the momentous international factors in this history of petroleum occurred when Egypt seized and closed the Suez Canal. England and France took steps to force the reopening, but their efforts were thwarted by Russia's offer to send volunteer forces to Egypt, and—later—on a threat of atomic repraisals against NATO nations. The issue was finally settled by Eisenhower's Middle East Doctrine.

Middle East crisis

Europe's Middle East oil supply was cut off. The Foreign Supply Committee became the Middle East Emergency Committee, and Soviet policy in the situation was described as an attempt to use Nasser-style Arab nationalism as a dagger to strike at the oil-jugular vein of the Western Alliance.

As oil was moved around the Cape to Europe, the Middle East Emergency Committee which actually consisted of American international oil companies, became the focal point of an industry intramural debate and controversy involving the imports issue. Independents demanded more pipeline connections. State proration policy, especially in Texas, drew fire when allowables were not raised to meet the crisis.

A 50-cent crude oil price increase stunned Washington and most of the major oil companies except Humble, which was the instigator of the increase. In Washington, a Massachusetts congressman called for an eleven-member National Petroleum Commission to take over all phases of the industry in the interests of national security and economy. Federal control of the petroleum industry became a by-word.

In the overall picture, the Mid-East Emergency Committee provided Europe with sufficient oil to prevent a million barrel daily shortage. When it was all over, the domestic industry in this country found itself unable to unwind its program with the necessary rapidity, and the result was an oil exploration and drilling depression from which we have not recovered to this day.

The impact of this crisis on domestic exploration and development was profound. For example, in an address before the Chicago Executive's Club in mid-November 1956,

Howard W. Page, Director of Standard of New Jersey, put his reasons for the action of the western nations, especially the United States, in the crisis rather tersely when he said:

"The importance of the Middle East lies in the fact that it is the greatest single reservoir of energy available to supply the growing needs of the entire Eastern Hemisphere outside the Iron Curtain. It is also important because it is testing ground for new nations. What happens there profoundly affects not only Europe, but Africa, the Far East, and even Latin America. And what happens in all these places affects America."[9]

As soon as the crisis ended, the politicians in this country opened all of the big guns in investigations, new proposals for federal control of the entire industry, and even a suggestion for internationalization of the entire western world petroleum industry.

The Russians sat by silently for a few months getting their first satellite into orbit, and then opened a new Middle East campaign, centering on Muscat, Oman, Syria, and Egypt. In the meantime, in this country, the crude oil buyers were putting purchaser proration into effect.

To try to keep things safe in the Middle East, the State Department was promoting the American International Companies toward increased imports of oil into this country, and by October 1957, Texas was on a twelve-day producing schedule, after three successive thirteen-day months. Domestic producers, many of whom had loans based on twice that many producing days, were facing financial disaster all over the country.

Then came announcements that it would be necessary to invest $60 billion in the oil industry in the next five years and that at least half of that would be invested abroad if we were to meet worldwide demand. Of course, domestic producers in this country, swimming in a sea of surplus oil, found this slightly difficult to understand.

To add fuel to the glowing fire of oil trouble, Russia stepped up the cold war in the Middle East and worldwide demand for oil suddenly took a temporary but highly significant downward turn. The Russians, turning their attention almost exclusively to the Middle East, put on a propaganda barrage, stressing Russia's military strength and technical superiority as indicated by Sputnik's flashing signals as it orbited the earth.

And skipping over an entire decade of international factors, we come to June 5, 1967, when, again, a third of the free world's petroleum supply was suddenly halted as Israeli and Arab guns flashed out in the historical six-day war.

The Soviets' and Arabs' determined effort to create a European oil famine failed. The United States supplied 90 million barrels over and above normal production during the crisis. That, interestingly enough, is exactly the amount of oil the United States had provided to win "the war to end all wars" in Europe between 1914 and 1918.

Throughout the entire crisis, the Soviets were telling the Arabs that Russia is their only real friend and that the United States and other western powers were friends of Israel and could not be trusted. Russia used every means to foment as much hatred as possible against the United States.

In the meantime, Russia was out in the marketplace offering to supply Soviet oil to help the poor, downtrodden Europeans. And, as strange as it seemed at that time, they found some takers. The Europeans were beginning to realize that the U.S. could not be depended upon in the future to meet another emergency.

FUTURE OUTLOOK

I think that it would be appropriate for me now to delve somewhat into the outlook for the future. However, before doing so I would like to stress the old adage that "the past is a prelude to the future." We have seen history repeat itself too many times to ignore this observation. The events of the past which I have related to you tonight might be an indication of what will probably happen in the future: that is, unless there are drastic changes soon in our government policies affecting energy supplies we will gradually lose our position as a great power in the world's political and economic arenas.

One thing is certain: we are entering the first phase of a serious energy crisis in this country. I can sum up the impact of this situation by quoting Joseph Kraft, columnist with the Washington Post, in his article of March 11, entitled "Energy Politics". He started his article by stating:

"Why do people babble endlessly about the energy crisis? Because at the heart of the babble there is a policy dispute," and he appropriately ended the article by stating, and I quote, "What all this means is that yakking about energy is not a shapeless babble. A great issue is emerging, and it is apt to dominate the politics of the next decade as a classic chapter of American history engaging interests, regions and men."

I thoroughly agree with Mr. Kraft. I would like to also add, not only will it dominate politics, it could change the complete lifestyle of this nation.

I want to emphatically state, as I have stated publicly before, that there are two great approaches, which would go a long way to solving the domestic energy shortage—one would be for all factions, especially our government, to encourage by proper incentives more domestic exploration for petroleum which, in turn, would result in greater production, and, secondly to immediately begin to provide long range planning through a meaningful energy policy for the domestic petroleum industry and certainly for the energy industry as a whole—irrespective of foreign sources and international politics.

Now for an outlook of the future.

I must begin by stating that the storage capacity of petroleum in the United States is virtually zero as compared with sixty days for Europe and approximately fifteen days for Japan.

Actually storage is only an insignificant safeguard—a back-up—for unexpected decrease of domestic production, but certainly more of a back-up for the unexpected cut-off from foreign sources.

The great concern of the have not countries which depend on a large amount of imports—and certainly the United States can be now considered to be a have not nation—is the apparent and unpredictable politically inspired cut-off. The United States is particularly vulnerable to a Middle East cut-off because of its partiality for Israel.

It is interesting to note that all Arab cut-backs so far have been aimed against Israel friends—in 1956, over the Suez Crisis, and in 1967, over the Six-Day War.

One inescapable conclusion is that in order for this nation of ours to maintain its rate of progress and to preserve the American way of life, the United States cannot afford to be on bad terms with the whole Arab membership of OPEC (Organization of Petroleum Exporting Countries)—this truism holds as an irrevocable fact no matter how much the individual Arab country in question may differ politically or ideologically within the Arab league. In other words, in the long run the Arabs are sticking together.

Those in the White House may well ask the question, "Can we still import our tremendous requirement in the 1980s if there is no resolution of the Arab-Israeli dispute by then?"

Frankly, it is a risk that this nation cannot afford to take. So far the Arabs have not exercised outright "political blackmail" on the United States to force their way, but we all know that the possibility is always present and can be used unexpectedly and be as sharp as the edge of the guillotine. The Russians are fully aware of this and it is no secret that they are continuously prodding the Arabs to use their most powerful weapon, which is oil, to punish the United States and other world powers friendly to the Israelis.

Because of this and other unstable international activities in the field of petroleum the western world is indeed in great jeopardy and will require strategic and expert diplomacy of the first magnitude to alleviate the serious situation which prevails. Unless some intelligent and effective diplomatic action is taken soon the Soviet Union's plan to conquer the world through the control of liquid energy will brush all past factors into a heaping pile of insignificance.

It is obvious that the Soviet Union is determined to control a large majority of the world's hydrocarbon reserves with the intention of dominating the present major source of energy until other sources, such as nuclear energy, are adequately developed.

This means that they are aiming at the jugular vein of the world's economy and especially that of the United States, which is energy based.

This plan of world control can be stopped, but only if the free world leadership—especially American leadership—recognizes the serious global implications which would arise out of the shortage of energy supplies.

However, I have faith that Americans will protect America—and that our scientific and technological know-how will meet the challenge of finding and creating sufficient energy to keep this great land of ours as free from dependence on potentially hostile sources as possible.

FOOTNOTES

[1] Consulting Geologist and Petroleum Engineer, Independent Producer and Operator.
[2] Wall Street Journal, December 26, 1967.
[3] Oil Trade Journal, August, 1917.
[4] Financial Times, January 19, 1921.
[5] The Red Line Agreement was consummated on July 31, 1928, with the organization of the Turkish Petroleum Company, which was composed of Anglo-Persian Oil Company, Royal Dutch-Shell Company, Compagnie-Francaise des Petroles, and Near East Development Company, each with 23.75 percent ownership, and Calouste Gulbenkian with the other 5 percent. It limited activities of the participants to specified Middle Eastern areas marked out by a red line on the map.
[6] New York American, December 14, 1922.
[7] Fanning, Ed., World Petroleum Policies, Pt. 6, p. 7 (Mona Palmer Publishing Corp., New York, 1957).
[8] Id. at Pt. 7, p. 8.
[9] The Lamp, Winter, 1956.

MORE FLAK OVER UTILITY ADS

Mr. METCALF. Mr. President, citizen efforts and actions by State utility commissions are at long last leading to curtailment of customer-financed utility advertising and promotion.

On February 6, I inserted in the CONGRESSIONAL RECORD, 3636–3637, an article from the January 15 issue of Electrical World dealing with utility advertising and the fairness doctrine. Electrical World followed up with an article in its February 15 issue on challenges to utility advertising and promotion practices in Ohio, Oklahoma, Wisconsin, and Illinois.

I am encouraged to believe that Consolidated Edison, under the leadership of Chuck Luce—and with continued gentle

prodding from New York Public Service Commission headed by Joseph C. Swidler—will soon join that select group of electric utilities which spend more on research and development than they do on advertising and sales promotion.

The seven companies which were in this select group in 1971, as I reported on January 26, are New England Power, Pacific Gas and Electric, Illinois Power, Duquesne Light—Pennsylvania, Arizona Public Service, Commonwealth Edison—Illinois, and San Diego Gas and Electric.

Mr. President, I ask unanimous consent to insert at this point in the RECORD the February 15 Electrical World article, "More Flak Over Utility Ads," and an article entitled "Nesbitt Clobbers Utility Promotion, Some Advertising," which appeared in the February 10 issue of the Oklahoma Observer.

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

[From Electrical World, Feb. 15, 1973]

MORE FLAK OVER UTILITY ADS

Should a utility be allowed to advertise like everybody else? Should utility advertising costs be passed on to the consumer? Indeed, does advertising increase the use of electric power? And would regulatory restrictions on ads raise or lower profits of large utilities that now advertise heavily?

All these questions have been raised again recently as utilities asked for rate hikes; regulators clamped down on utilities because of gas and distillate-fuel shortages; consumer groups and environmentalists fired broadsides at utilities during regulatory hearings; the courts were thrown into one melee; and a Purdue University marketing study made claims that utility advertising has little effect on power use.

The so-called energy crisis seems to be the hub of all the to-do, and two incidents there stand out (1) a hard-fought battle now under way in Oklahoma, involving utilities, advertising media, the Oklahoma Corporation Commission, and the State Supreme Court; and (2) the Purdue study.

Also in the running is a petition before the Ohio Public Utilities Commission, charging that advertising by utilities is contributing to the power shortage ,and requesting a restraining order against 11 utilities. Only seven utilities were originally involved in a suit filed by the Nader-affiliated Ohio Public Interest Action Group—Cincinnati Gas & Electric Co., Ohio Edison Co, Ohio Power Co, Dayton Power & Light Co, Cleveland Electric Illuminating Co, Toledo Edison Co, and Columbus & Southern Ohio Electric Co. But the PUC added four others to the list.

Despite appeals for dismissal by the seven (Columbus & Southern Ohio filed separately since OPIAG offices are in its service area), the PUC hearing examiner reportedly recommended that the case should not be dismissed and that a hearing should be held. The group of six utilities claimed, in requesting dismissal, that OPIAG was not in their territories, that the PUC had already had an investigation under way, and that the legislature meant its statute to apply only to customer rates and services and not to company management policy.

In Wisconsin, John Neess, a University of Wisconsin zoology professor and director of "Wisconsin's Environmental Decade," told the Wisconsin Public Service Commission that removing advertising and public relations from a requested $10.3-million rate increase by Wisconsin Power & Light Co. would reduce the request and not pass on advertising costs to customers.

"The center of our case," Neess said, is that revenue "should be reduced by all operating expenses not directly related to providing electric, gas, or water services."

The Illinois Commerce Commission (ICC) sent questionnaires to all utilities asking for breakdowns on promotional, institutional, and image advertising. A petition by Northwestern University students asked the commission to disallow, for rate-making purposes, advertising aimed at increasing consumption of electricity or at conveying a favorable company image.

However, the petition favored publicity aimed at "efficient and conservative use" of power. Within the next two months or so, eight utilities in the state must submit a description of their advertising programs to the ICC.

In the Oklahoma battle, Oklahoma Gas & Electric Co., Public Service Co. of Oklahoma, other utilities, the State Home Builders' Organization, various charitable groups, and the advertising media are on one side, and the Oklahoma Corporation Commission and its staff are on the other.

The utilities and other groups affected by the OCC stand are appealing to the Oklahoma Supreme Court an OCC ban on utility advertising and promotional practices issued last Dec. 21. The matter went to the Supreme Court once, but was remanded to the commission.

Faced with the new appeals, the commission ordered the utilities to put up stiff $250,000 bonds for the first six months of the appeal period and $500,000 thereafter. Commission Chairman Charles Nesbitt said the bonds were fixed high purposely to speed the appeals.

The utilities curtailed their media advertising pending the outcome of a rehearing on Jan. 19. When the commission set the appeals bonds, it took requests for advertising exceptions under advisement.

PS of Oklahoma continued to advertise, but slanted its "country" newspaper ads toward energy conservation. Chairman Nesbitt and Commissioners Ray C. Jones and Rex Privett have stood solidly together on the ban. Privett, who is new on the commission, had not been seated when the ban was first applied.

The commission's staff said that the state's 11 major utilities spent $3.7-million in advertising and promotion during the year preceding last November's hearings. This included $500,000 in contributions. The commission also scheduled rate hearings starting the week of March 19 regarding the possible return of money to consumers who have had advertising expenses passed on to them. In remanding the case back to the commission, the state Supreme Court also issued a stay order that forbids any return of money to consumers at least until after the case is adjudicated.

The Purdue marketing study found that advertising merely calls attention to power production, rather than persuading, and that it does not influence the basic size of the demand for any product, including electricity. Restrictions on corporate advertising, the report claims, would merely increase the profits of any company that does a lot of advertising.

The findings seem to undercut contentions of environmentalists and no-growth advocates who claim utility advertising should be cut because it helps deplete energy resources and boosts the use of energy.

[From the Oklahoma Observer, Feb. 10, 1973]

NESBITT CLOBBERS UTILITY PROMOTION, SOME ADVERTISING

The greatest tragedy in all history is the murder of a beautiful theory by a gang of brutal facts.

Check the theories that may tumble in the memorable battle involving the status of public utility advertising in Oklahoma:

Theory One—That public utilities (as corporations) are entitled to First Amendment privileges and any attempt to regulate their advertising affairs, charitable contributions and promotional policies is unconstitutional. Nonsense.

Theory Two—That the Corporation Commission can legally or morally tell utilities what they can do with their profits. Nonsense.

Theory Three—That utilities, because they are quasi-public, cannot take issue with the government.

Luckily, nothing has withstood the test of time better in Oklahoma than the wisdom of Constitutional Convention delegates who prescribed a series of checks and balances in utility regulations. The current issue will be resolved by the State Supreme Court—and not as part of a quarrel between the Corporation Commission and utility companies.

The Corporation Commission (read that Charles Nesbitt, since the other two rolled over and played dead) began more than a year ago to look into advertising, charitable contributions and promotional practices of public utilities.

Proceedings were suspended for a year while Nesbitt took a fling at the U.S. Senate race, during which he received almost no backing from state newspapers, a prime beneficiary of utility advertising dollars.

The ill-fated race behind him, Nesbitt cranked out a blistering order on Dec. 21, "We spare you the legal hocus-pocus." It said no more advertising would be permitted except it be consumer or conservation oriented. Charitable contributions would have to come from profits. All promotional programs would be prohibited.

Promotions include such items as slipping the builder of a $25,000 house a check for $400 to go All-Electric. (We don't know what the gas company paid but it was probably fairly competitive.)

Now the case has wound up in the State Supreme Court, with utilities discontinuing almost all advertising despite a stay of the order won by the Oklahoma Press Association, which claimed the order was procedurally illegal.

Utilities claim they don't want to advertise and be in jeopardy. Cynics say they suspended advertising pending outcome of the suit to galvanize public support via newspapers and broadcasters. It worked. The media lost an estimated $100,000 in advertising in the first week.

Few people doubt that the Supreme Court will modify the order, particularly telling the commission that a corporation's profits are its own business, not Nesbitt's. Beyond that, most of the Nesbitt order is likely to stick.

So who is right and who is wrong in this tangled web involving millions of dollars?

Nancy Lewis of the Oklahoma Journal did a splendid regional survey on promotional practices and learned that Oklahoma is almost in a class by itself on promotional allowances. Officials of regulatory bodies in several states were downright shocked it was going on in Oklahoma.

There is no legal doubt that the Commission can establish legal parameters; the method is something else. It is one thing to bar institutional advertising from gross receipts, but where does Nesbitt get off telling shareholders they also can't do any from profits?

Competitive advertising ought to be barred but it will be tough. "Conservation" can be defined as cooking meals on gas, since it takes more gas to produce electricity for cooking a meal. It would be conservation for all night lights to be electric since gas lamps in the yard burn 24 hours a day, wasting a precious, declining commodity.

Consumer oriented advertising poses no problems. In fact OG&E has been on that track, probably sensing Nesbitt's state of mind a year ago when he ran up the red flag.

For some utility people to bad mouth conservation and consumer advertising indicates just how far off the track they've been or how uncreative their corporate brains are.

It is unlikely that utilities will end up having to tap stockholders for all charitable contributions. There is likely to be a compromise here, since it is not right to permit unlimited use of customer dollars for what a utility might think is charitable. Some judicious restraint is probably in the making in this area.

Undoubtedly some utilities have gone bananas on promotional allowances. We have a long list of horror stories in this field. The Corporation Commission is perfectly within its legal right to banish them—to the mighty applause of virtually every Oklahoman.

Utility advertising had gotten completely out of hand in Oklahoma and the utilities privately admit it. The great battle between the titans, OG&E and ONG, had to be one that neither could win. If Nesbitt hadn't intervened there would probably have been a class-action lawsuit reaching the same ends.

It is all well and good to refer to utilities as "investor owned," but that are quasi-public industries granted territorial exclusivity and a guaranteed rate of return. They must operate in the public interest or become arms of government. As bad as government messes up in the private sector, it's better to have sharply regulated semiprivate operations than ones operated by the government.

Nesbitt is correct in saying that it is one thing for a wholly private business to go into the self-congratulation business—it's simply not right in the utility business. Anyone who doubts his rationale should submit it to a vote of the people. Most citizens are more harsh in their judgment than Nesbitt.

A pathetic sidelight to the whole affair has been the reaction of some newspaper publishers whose tirades on the issue sadly reinforce our view that a segment of the press is no longer dedicated to the public interest.

Few papers will suffer more adversely than The Observer, yet we applaud any decision which brings a modicum of rationality back to utility practices on advertising and promotions. To hear some editors tell it, a corporation is suddenly entitled to the same rights as an individual under the First Amendment. They need a remedial course in government.

ANCHORAGE-FAIRBANKS RESOLUTION ON TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, due to the highly emotional nature of the subject and the importance of the current energy crisis, the facts concerning the trans-Alaska pipeline have not been clearly presented to many people. The Department of the Interior has recently published a revised fact sheet on the pipeline. I believe this will be useful to the general public.

I request unanimous consent that the fact sheet of March 1, 1973, of the Secretary of the Interior on the trans-Alaska pipeline be printed in the CONGRESSIONAL RECORD at this point.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C., March 1, 1973.

TRANS-ALASKA PIPELINE

In early 1968, oil was discovered on the North Slope of Alaska by companies exploring lands leased to them by the State of Alaska.

A consortium of oil companies applied to the Department of the Interior's Bureau of Land Management for permits to construct a pipeline system across public lands to transport oil from Prudhoe Bay on the Arctic Ocean to Valdez, an ice-free port on the southern coast of Alaska.

On May 11, 1972, Secretary of the Interior Rogers C. B. Morton announced his decision to grant right-of-way permits for the proposed Trans-Alaska Pipeline.

The announcement culminated an exhaustive and unprecedented three-year study of ways in which to safely transport the petroleum resources from the Alaska Arctic.

A Federal Task Force on Alaskan Oil Development, established by President Nixon in May 1969, proceeded to institute a Technical Advisory Board which, in turn, established the Menlo Park (Calif.) Working Group. That group embodied representation from a number of Federal agencies as well as the State of Alaska. The Working Group—in effect an advisory body to the Federal Task Force—created a number of subordinate working groups for the purpose of preparing the Environmental Impact Statement. In addition, the Working Group—

Prepared a six-volume Environmental Impact Statement, considered to be the most comprehensive and detailed study ever conducted under the National Environmental Policy Act. Preparation of the Statement required 18 months and involved consultation with and contributions from more than 20 Federal and State agencies;

Closely examined other alternatives, including possible Canadian routes, other transport systems and other sources for the energy;

Prepared, in three detailed volumes, an analysis of the economic and security aspects of the system;

Conducted a sweeping geologic and engineering analysis of the proposed pipeline system across Alaska; and

Developed the strictest environmental and engineering stipulations ever drafted to safeguard a project of this kind.

The Department is now organizing a professional Federal team which will validate designs submitted by the oil consortium, exercise continuing surveillance over construction to assure strict quality control of the pipeline system and minimum environmental disturbance.

Three significant and separate groups of public hearings were held on the proposed pipeline: The first, on August 29–30, 1969, in Fairbanks; a second series, nine in number, held by the House and Senate Interior and Insular Affairs Committees, and by the Fish and Wildlife Subcommittee of the House Merchant Marine and Fisheries Committee between August and September, 1969; and the third series, over a period of seven days in February 1971 was held on the preliminary environmental statement in Washington, D.C. and Anchorage, the hearings resulting in more than 12,500 pages of testimony.

On June 22, 1972, the Secretary of the Interior appeared before the Joint Economic Committee of Congress with a 20-page statement detailing the reasons for the decision to grant right-of-way permits for the proposed Trans-Alaska Pipeline.

A preliminary injunction which had prohibited issuance of permits for the pipeline since April 1970 was vacated on August 15, 1972; however, plaintiffs appealed the decision to the Court of Appeals. The Appellate Court held hearings on October 6, 1972 and announced its decision on February 9, 1973. The Court (6–1) ruled that because of the width limitations in Section 28 of the Mineral Leasing Act of 1920, the Secretary did not have authority to issue Special Land Use Permits for the space needed during construction of the pipeline; the Court (4–3) refused to consider whether the environmental impact statement complied with the provisions of the National Environmental Policy Act.

On February 28, the Secretary of the Interior called on the Justice Department to ask the Supreme Court to review the case and to decide on the merits both of the Mineral Leasing Act issue and the National Environmental Policy Act issue.

At the same time, the Secretary announced that he is recommending that Congress promptly enact legislation to eliminate the width limitations and to completely revise the statutes concerning rights-of-way not only for pipelines but also for transmission lines and other facilities which must cross federal lands.

CIVIL RIGHTS: END OF AN ERA?

Mr. HUMPHREY. Mr. President, since last November the U.S. Commission on Civil Rights has been without a Chairman. Moreover, recent policies and actions of the Nixon administration have raised grave concern among many citizens that progress toward establishing equal justice and opportunity for all Americans may be grinding to a halt.

I have written to the President, strongly urging him to nominate a Chairman of the Civil Rights Commission, and underscoring the importance of the Commission's latest report on the inadequacies of Federal civil rights enforcement efforts.

I deeply regretted the President's acceptance of the resignation of Father Theodore M. Hesburgh, whose distinguished service as Chairman of the Commission has earned him respect and admiration across the country. He has been a warm friend, for whose counsel and commitment I have always had the deepest respect.

Mr. President, I ask unanimous consent that the following items be included at this point in the RECORD: The text of my letter to the President; a statement on Father Hesburgh by the Reverend Paul Moore, Jr., Episcopal bishop of New York, and appearing in a November 1972, issue of the New York Times; a statement by the Commission on Civil Rights on its January 1973, report, entitled "The Federal Civil Rights Enforcement Effort—A Reassessment"; an article from the Washington Post of February 10, 1973, presenting the highlights of that report; and an editorial in the Washington Post of February 13, 1973, entitled "Civil Rights Enforcement: Highly Inadequate."

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

U.S. SENATE,
Washington, D.C., March 19, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: I am deeply concerned by the continued vacancy in the chairmanship of the U.S. Commission on Civil Rights.

I was encouraged, in your message of March 1, by your stated commitment to pro-

tect the civil rights of every American and by your indication that the Commission on Civil Rights will receive additional resources to carry out its new responsibility to promote equal opportunity for women.

The appointment of a vigorous chairman, however, is the most important resource the Commission can have, save only the strong moral leadership of the President himself. Clearly, the denial to the Commission of an effective chairman forestalls progress in its most important function, awakening the conscience of America to denials of human dignity under patterns and practices of discrimination.

Therefore, I urge you to submit this nomination without further delay for Senate consideration.

Like many Americans, I was profoundly disappointed by your acceptance last November of the resignation submitted at your request by Father Theodore M. Hesburgh. His distinguished service over 16 years as chairman of the Commission was viewed with constant deep respect and admiration across the nation. A gentleman of the highest integrity and absolute commitment to overcoming barriers to equal justice and opportunity for all Americans, Father Ted provided exactly the strength of leadership for civil rights that I continue to hope will be reflected throughout your Administration.

The January, 1973, report by the Commission, "The Federal Civil Rights Enforcement Effort—A Reassessment," makes it abundantly clear that despite some improvement, the federal enforcement effort remains inadequate. Strong leadership and direction are absolutely essential.

Moreover, people are expressing concern throughout the country, evident in the recent organization of a broad-based civil rights coalition, that current policies of your Administration demonstrate a retreat from federal leadership for equal opportunity.

The fears cited include your reduction in federal assistance for school desegregation. These Administration policies also include cutbacks in funding and freezes or terminations of programs that seriously will hurt minority groups in desperate need of decent housing, adequate health care, job opportunities, help to end the nightmare of poverty, and social services that help transform public dependency into self-sufficiency.

I respectfully urge you to re-evaluate such policies and to carry through the full responsibility for progress in civil rights that rests upon your office. You may be assured of my total support of efforts by your Administration to establish hope and opportunity for all Americans.

Sincerely,

HUBERT H. HUMPHREY.

[From the New York Times, November 1972]

FAREWELLS TO FATHER HESBURGH

(By Paul Moore, Jr.)

The President's request for Father Hesburgh's resignation from the Civil Rights Commission is one of the most alarming signs of the times.

Our nation has had its ups and downs, God knows; its swings from liberalism to conservatism, from activism to sleepwalking. But, usually, once a level of decency is won we hold on to it despite the political climate. Labor unions won the right of collective bargaining and now no one would dare question this right. The aging won Social Security and no one would think of removing it. I had believed that our minorities had won the right to equality of opportunity in the one-hundred-and-twenty-year struggle from the abolitionists to Dr. Martin Luther King.

It seems this is not so. Racism in virulent form is tearing the North apart as once it tore the South. Even here in New York the poison is deep. Selfishness and prejudice always lie just beneath the surface of human affairs. Thus it is essential for our leaders to reiterate the principles of justice and to act on them, so that at the very least, indulgence in prejudice brings a sense of shame, a sense of condemnation in the public eye.

Until recently such was the case and our people, little by little were being fooled, urged, cajoled into submerging greed and intolerance. For over twenty years the Federal Government in all three branches assumed this role and made common cause with minorities. Despite the inadequacy of implementation, I remember the sense of reassurance we felt in Mississippi, for instance, that the Federal Government was behind our efforts.

But now it seems we slide quickly away from the great partnership of the Federal Government with the poor; the seeming firm beachhead of the right of equality of opportunity is being lost. This is truly a terrible thing. Its symptoms are the political use of the busing issue, the cutback in social programs, the tragic plight of the O.E.O. Its results may have as deep an effect on the spirit of all our people as the Vietnam war—nor are the two issues separable.

At least until recently the Government had some built-in checks and balances to alleviate such a trend. With Father Hesburgh's resignation a strong voice within Government is silenced, a check to regression removed.

He represented one who seemed squarely in the center of the spectrum of America and he spoke from such a base. He represented a valued role for the churchman—separated from the state, able to criticize with total integrity and no ulterior motives the soft places in government's support of justice.

With Father Hesburgh's resignation we not only lose a respected public servant but are duly warned that for the first time in history we are retreating from a major gain in the understanding of what the United States stands for.

If our Government cannot endure such wise courage on a commission whose very function requires judgment on itself, we are in graver danger than I had imagined.

The vision of true conservatism, the conserving of the values of equality of opportunity and the equal worth of each human soul, is clouding. The dream of Dr. King becomes a nightmare as vicious racism erupts across the land, encouraged by politicians on all levels.

Thus we need the leadership of Father Hesburgh even more and I pray that he will continue to speak his mind and that America will listen. I pray that the present diminution of the values of our land will be reversed before we choke on the words of our National Anthem.

THE FEDERAL CIVIL RIGHTS ENFORCEMENT EFFORT—2 YEARS LATER

More than two years ago this Commission issued the first in a series of reports evaluating the structure and mechanisms of the Federal civil rights enforcement efforts. We undertook these studies because while there was an impressive array of Federal civil rights laws, Executive orders, and policies, the promise of equal justice for all Americans had not approached reality. We felt that the Federal Government was the single institution in our society possessing the legal authority, the resources, and—potentially, at least—the will for attacking social and economic injustice on a comprehensive scale.

In that report, the Commission identified weaknesses in civil rights enforcement which continue to permit such grievous wrongs as segregation in our schools, discriminatory housing and employment, disproportionate hardship to minorities in urban development and highway construction, and inequitable distribution of health services and other Federal benefits.

Today we are releasing a third follow-up report, which was submitted last September to the Office of Management and Budget for its use in reviewing budget submissions of the Federal agencies. Our basic conclusion is that the Federal effort is highly inadequate; that it has not improved as much as we would have expected since our last report in November 1971; and that strong leadership and direction are absolutely necessary to prevent a continuation of the ineffective enforcement program developed over the last nine years. We issue this report in the hope that our findings will be studied by the President, his agency heads, the Congress, nad the American people and that strong remedial action will be promptly undertaken.

Our findings are dismayingly similar to those in our earlier reports. The basic finding of our initial report, issued in October 1970, was that executive branch enforcement of civil rights mandates was so inadequate as to render the laws practically meaningless. Many deficiencies ran throughout the overall effort. We found, for example, that the size of the staff with full-time equal opportunity responsibilities was insufficient. At the same time, because of their low position in their organizational hierarchy, civil rights officials lacked authority to bring about change in the substantive programs conducted by their agencies. Moreover, it became abundantly clear that agency civil rights enforcement efforts typically were disjointed and marked by a lack of comprehensive planning and goals. Agencies failed to search our patterns of bias, preferring instead to respond to individual complaints. Even where noncompliance was plainly substantiated, protracted negotiations were commonplace and sanctions were rare. Finally, we found a lack of Government-wide coordination of civil rights efforts.

This deplorable situation did not develop accidentally. Nor were the Commission's findings a surprise to those knowledgeable about civil rights and the role of the Federal Government. The enforcement failure was the result, to a large extent, of placing the responsibility for ensuring racial and ethnic justice upon a massive Federal bureaucracy which for years had been an integral part of a discriminatory system. Not only did the bureaucrats resist civil rights goals; they often viewed any meaningful effort to pursue them to be against their particular program's self-interest.

Many agency officials genuinely believed they would incur the wrath of powerful members of Congress or lobbyists—and thereby jeopardize their other programs—if they actively attended to civil rights concerns. Moreover, since nonenforcement was an accepted mode of behavior, any official who sought to enforce civil rights laws with the same zeal applied to other statutes ran the risk of being branded as an activist, a visionary, or a troublemaker. Regrettably, there were few countervailing pressures. Minorities still lacked the economic and political power to influence or motivate a reticent officialdom.

In spite of these inherent difficulties, we knew that Government employees respond to direct orders. We were convinced that if our Presidents and their agency head and subcabinet level appointees had persisted in making clear that the civil rights laws were to be strictly enforced, and had disciplined those who did not follow directives and praised those who did, racial and ethnic inequality would not have been as prevalent as it was in 1970. Leadership—presidential, political, and administrative—and the development of realistic management processes are the keystones to a vigorous and effective

Federal enforcement effort. Our study concluded that this leadership unfortunately was lacking. Despite certain halting steps forward and a few promising public pronouncements, Presidents and their appointees seldom assumed their potential role as directors of the Government's efforts to protect the rights of minority Americans.

The Commission's two followup reports, issued in May and November 1971, found that some agencies had made some progress in improving their civil rights structures and mechanisms. Important action had been taken by such agencies as the Office of Management and Budget and the Department of Housing and Urban Development. But other agencies—such as the Federal Power Commission, the Department of the Interior, and the Law Enforcement Assistance Administration of the Department of Justice—had made almost no headway in developing the tools necessary to combat discrimination.

In this, our most recent assessment, we have found that the inertia of agencies in the area of civil rights has persisted. In no agency did we find enforcement being accorded the priority and high-level commitment that is essential if civil rights programs are to become fully effective. Significant agency actions frequently are accompanied by extensive delays—in the issuance of regulations, in the implementation of regulations, and, greatest of all, in the use of sanctions when discrimination is found. Innovative steps occur here and there, but they are uncoordinated with those of other agencies. For example, the Department of Housing and Urban Development and the General Services Administration have issued regulations implementing their 1971 agreement to assure availability of housing for lower-income families, open without discrimination, in any area in which a Federal installation is to be located. Neither agency, however, has undertaken the responsibility of devising an overall plan to see that every Federal agency assigns a high priority to this effort.

There is no Government-wide plan for civil rights enforcement. There is not even effective coordination between agencies with similar responsibilities in, for example, the employment area, where the Civil Service Commission, the Equal Employment Opportunity Commission, and the Office of Federal Contract Compliance share enforcement duties. The Equal Employment Opportunity Coordinating Council, created by Congress in March 1972 for this precise purpose, had not addressed any substantive issues in the first six months of its existence.

There have been some noteworthy actions, and the agencies which have instituted new and more effective compliance procedures should be duly recognized. For example, the Department of Housing and Urban Development has issued regulations requiring builders and developers, prior to the approval of HUD assistance, to demonstrate that they have undertaken positive actions to sell or rent to minorities. The Department of Health, Education, and Welfare performs special studies in the health and social services area, apart from its normal program of onsite civil rights reviews. These studies have examined such issues as language barriers to the delivery of services to non-English speaking minorities. The Department of Agriculture's Office of Equal Opportunity has been involved in extensive upgrading of its enforcement mechanism. This includes a system whereby the Department's constituent agencies are required to set goals for minority participation in their programs. The Environmental Protection Agency, although a relatively new agency, has demonstrated energy and creativity in its efforts to enforce the provisions of title VI of the Civil Rights Act of 1964 prohibiting discrimination in the distribution of Federal assistance. The Civil Service Commission, working with the language of an Executive order which Congress now has enacted into law, has begun to enlarge its equal opportunity staff and change its procedures.

For every step forward, however, numerous cases of inaction can be cited. The Department of the Interior has begun to conduct onsite reviews of the State and local park systems it funds, but it has not yet developed a comprehensive compliance program. It has not, for example, provided adequate guidance to these park systems concerning actions prohibited by Title VI. The Federal Power Commission still refuses to assume jurisdiction over the employment practices of its regulatees, despite a Justice Department opinion that it has authority to do so. The Interstate Commerce Commission has delayed a decision on the very same point for over 18 months.

The Federal financial regulatory agencies have not begun to collect racial and ethnic data. Neither have they made the necessary effort to use the traditional examination process to detect discriminatory lending practices barred by Title VIII of the Civil Rights Act of 1968. The Office of Federal Contract Compliance has been downgraded within the Department of Labor and its effectiveness has commensurately diminished. The Internal Revenue Service continues to construe in an unjustifiably narrow manner its duty to keep discriminatorily operated private schools from receiving tax-exempt status. Its school reviews have been perfunctory and its cooperation with the Department of Health, Education, and Welfare is almost nonexistent.

A year ago we noted some encouraging signs in the Department of Justice's coordination of the Title VI programs of the various Federal agencies. Now the Department's activities again have become lethargic. Evidence of this is the fact that proposed uniform amendments to agency Title VI regulations have not been issued more than five years after the need was recognized by Department officials.

Even among those agencies where we found improvements, serious problems persist. Some agencies still do not adequately review the recipients of their assistance. The Department of Housing and Urban Development, for example, conducted only 186 reviews of the 12,000 agencies it funded during Fiscal Year 1972. HUD has yet to set priorities for scheduling reviews. Even when reviews are conducted, there is reason to believe that they are often superficial. The Department of Agriculture reports that it reviewed more than 24,000 of its recipients last year. Yet only one instance of noncompliance was discovered—a remarkable, if not unbelievable record, considering the extensive discrimination which pervades federally funded agriculture programs.

Other agencies continue to utilize low standards. The Civil Service Commission refuses to validate its tests according to the standard used by the Equal Employment Opportunity Commission, the Office of Federal Contract Compliance, and the Department of Justice and approved by the Supreme Court of the United States.

In one of the most important areas of national life—the provision of equal educational opportunities for our children, we now find lowered compliance standards for elementary and secondary schools and what appears to be the elimination of the threat of fund termination which has rendered the Department of Health, Education, and Welfare's enforcement program ineffective.

In the face of this dismaying picture, the Office of Management and Budget, the one Federal entity with authority over all agencies, has maintained its interest, but has not accelerated its civil rights efforts in keeping with the demonstrated need. Execution of OMB's civil rights responsibilities is left largely to the discretion of individual staff members. OMB has not established a full-time and adequately staffed civil rights unit with responsibility for interagency policymaking and monitoring. No one has been charged by the Director of OMB with the specific duty of holding the staff accountable for identifying and fulfilling the civil rights aspects of their assignments. The total potential of the budget and management review process for civil rights evaluation thus has not been realized.

This latest Commission study has reinforced the findings of the three preceding reports that the Government's civil rights program is not adequate or even close to it. This matter is of critical importance to the Nation's well-being, for we are not dealing with abstract rights, but with the fundamental rights of all people—a decent job, an adequate place to live, and a suitable education. Everyone must have the opportunity to share fully in the bounty of our society—not as stepchildren or wards of the Government but as dignified citizens of this, the greatest Nation on earth.

The Federal Government's constitutional and moral obligations are clear. The long-term stability of this Nation demands an end to discrimination, in its institutional forms as well as in its overt individual manifestations. Yet large-scale discrimination continues.

Our faith in the ability of even our imperfect democratic society to live up to its commitments when challenged to do so gives us hope that the future will be less bleak than are the past and present.

That challenge can only come from the aggressive leadership by those in government at all levels who have taken a solemn vow to uphold the Constitution. Historically, the Presidency has been a major focal point through which the power of the Nation as well as its conscience has been expressed.

If our hope for lasting peace among the Nations of the world requires a rapprochement with those Nations from which we have been estranged, then our hope for domestic tranquility between our diverse population requires no less. Presidential leadership has brought us far along the road toward the accomplishment of international understanding, cooperation and friendship with many of our hitherto implacable enemies. For this the Nation should be grateful. Presidential leadership has not yet been brought equally to bear on the creation of a similar situation within the Nation. Without the leadership of the President, this job not only becomes infinitely more difficult, but a steady erosion of the progress toward equal rights, equal justice and equal protection under the Constitution will occur. History suggests that so long as one man is not free the freedom of all is in jeopardy.

The first requirement of any such effort on the part of the Chief Executive and his appointees is that of an unequivocal, forceful implementation of all the civil rights laws now on the books.

In the past, the Government's vast resources frequently have been effectively marshaled to cope with natural disasters, economic instability, and outbreaks of crime. Can we afford to do less when dealing with this country's greatest malignancy—racial and ethnic injustice?

The answer is clearly "no." But days pass into weeks, then into months, and finally into years, and Federal civil rights enforcement proceeds at a snail's pace. It lacks creativity, resources, a sense of urgency, a firmness in dealing with violators, and—most important—a sense of commitment. Time is running out on the dream of our forebears.

While we do not feel that our efforts have thus far produced significant results, this Commission remains committed to review-

ing periodically the civil rights enforcement activities of the Federal agencies. We are aware that there now are a number of new agency heads and that some steps have been taken in the six-month period since we completed this review. We intend, therefore, to complete another evaluation of the Government's efforts in six months.

But our activities in this field cannot begin to meet the need. Private groups and individuals must become more involved in monitoring the Federal Government's activities. This involvement may well lead, as it has in the past, to judicial and administrative proceedings seeking relief where Federal activities have been weak or ineffective. Such involvement most certainly leads to a more informed citizenry and a more responsive bureaucracy.

Every citizen has a right to expect that his or her Government will rededicate itself to the principle of equality and an effective program of enforcement to support that commitment. Without that commitment, this Nation will not keep faith with the clear mandate of the Constitution.

[From the Washington Post, Feb. 10, 1973]

RIGHTS PANEL RAPS UNITED STATES ON ENFORCEMENT

(By Austin Scott)

The U.S. Commission on Civil Rights said yesterday that despite clear constitutional and moral obligations, the federal government's program to enforce its own civil rights laws is in chaos, "not adequate or even close to it."

In 425 pages of detailed examples, the commission said there has been a failure of leadership at almost every level of every federal agency, including the White House, to live up to its promises on equal rights and equal opportunities.

". . . Days pass into weeks, then into months, and finally into years, and federal civil rights enforcement proceeds at a snail's pace," the commission said.

"It lacks creativity, resources, a sense of urgency, a firmness in dealing with violators, and—most important—a sense of commitment. Time is running out on the dreams of our forebears."

The report is the final one under the chairmanship of the Rev. Theodore M. Hesburgh, who resigned last fall after 16 years on the commission.

The findings in this fourth report were "dismayingly similar to those in our earlier report," the commission said.

A few examples taken from its hundreds of pages of accusations:

The Federal Power Commission still refuses to enforce fair hiring standards for the industry it regulates, "despite a Justice Department opinion that it has authority to do so."

"The Interstate Commerce Commission has delayed a decision on the very same point for over 18 months."

Agencies that oversee the financial world ". . . have not begun to collect racial and ethnic data."

The Internal Revenue Service looks "in an unjustifiably narrow manner" at its job of keeping segregated private schools from getting tax exempt status. Moreover, there is almost no cooperation on that issue between IRS and the Department of Health, Education and Welfare.

HEW's efforts to provide equal educational opportunity have been made "ineffective" by "what appears to be the elimination of the threat of fund termination . . ."

In the Labor Department, the Office of Federal Contract Compliance ". . . has been downgraded . . . and its effectiveness . . . diminished . . ."

The report said the government appears to be more effective at coping with natural disasters, economic instability and outbreaks of crime than with "this country's greatest malignancy—racial and ethnic injustice."

It argued that "the long-term stability of this nation demands an end to discrimination."

President Nixon's leadership "has brought us far along the road" toward international cooperation with "many of our hitherto implacable enemies," it said, adding that presidential leadership "has not yet been brought equally to bear on the creation of a similar situation within the nation."

Without presidential leadership, the commission said, "a steady erosion of the progress toward equal rights, equal justice and equal protection under the Constitution will occur."

A little more than two years ago, in October, 1970, when the commissioner issued its first report on the federal effort, it said that "executive branch enforcement of civil rights mandates was so inadequate as to render the laws practically meaningless."

It added then that "this deplorable situation did not develop accidentally."

Now, the commission said, we have found that the inertia, of agencies in the area of civil rights has persisted.

The few innovative steps occurring "here and there" remain uncoordinated, it said, adding: "There is no government-wide plan for civil rights enforcement. There is not even effective coordination between agencies with similar responsibilities . . ."

Comments on specific agencies included:

Office of Management and Budget:

While OMB "made progress in institutionalizing its civil rights program . . ." it "has failed to take the most important step . . ." the report said.

"It has not created a civil rights unit with adequate authority for monitoring and giving direction to all its civil rights activities."

This is particularly important, the commission said, because as overseer of the federal budget, OMB has authority and control over all federal agencies except the White House.

Civil Service Commission:

While there is "modest improvement in employment practices of federal departments and agencies . . . the overall picture is still one of pronounced disparate treatment," the report said.

Minorities make up 15.2 per cent of the general federal work force, up from 14.7 per cent in 1970, it said. But in that two-year period, there was only one half of 1 per cent rise in the number of minority workers at the higher salary levels, and minorities make up less than 3 per cent of the workers at high policy-making levels.

The Civil Service Commission is one of the many agencies who have no minorities in high policy-making positions, the report said.

It praised "improved" procedures for handling the 4,828 complaints of race, sex or national origin discrimination filed in the first nine months of last year, but said those guidelines still need further strentghening.

It also noted "some improved steps" to recruit Spanish-surnamed Americans.

Housing and Urban Development.

One major weakness of HUD's affirmative marketing regulations is that "they do not apply to existing FHA-insured or FHA-subsidized projects . . .," despite statistics that show extensive segregation in such projects.

Complaint processing has also been slow, partly because of "the inefficiency of state and local fair housing agencies."

Of 1,057 complaints referred to state and local agencies in fiscal 1972, investigations were completed in only 164, the report said.

Equal Employment Opportunity Commission:

A number of "potentially effective" changes have been made in EEOC procedures, but their backlog of complaints continues to increase, the report said. The backlog was 23,642 complaints in September, 1971, 53,410 last June, and is expected to exceed 70,000 by next June.

Department of Labor:

The commission recommended some time ago that the Office of Federal Contract Compliance be removed from the Labor Department, and merged with the Equal Employment Opportunity Commission.

The latest review "confirms our earlier fear," it said. There are no adequate procedures to resolve compliance problems, and no effective means to evaluate "good faith" efforts by contractors, the report said.

Only $2.6 million has been requested for the OFCC in fiscal 1973, the report said, "the same as the 1972 level, which has been inadequate . . ."

Health, Education and Welfare:

Slapping sanctions on school districts that discriminate has been de-emphasized in favor of voluntary negotiations, the report said, "but there is no indication that this approach is succeeding." And with voluntary or court-ordered school desegregation, HEW cannot monitor without "substantial staff increases."

The report also said "There has been virtually no effort to prevent flow of federal funds to nonpublic schools which are engaging in discriminatory practices."

Hesburgh who was named to the chairmanship of the commission by President Nixon in 1969, had become in subsequent years an increasingly outspoken critic of the administration's attitudes on civil rights. When he routinely submitted his resignation along with other agency heads last November, it was the first one accepted.

Afterward, the Notre Dame University president said Mr. Nixon had spent no more than 15 minutes with the commission in the past four years.

[From the Washington Post, Feb. 13, 1973]

CIVIL RIGHTS ENFORCEMENT: "HIGHLY INADEQUATE"

In its new report on federal civil rights enforcement, the United States Commission on Civil Rights has painted a doubly dismal picture. In this, its third such report since the beginning of the first Nixon administration, the commission concludes that "the federal effort is highly inadequate." But it might just as well have said that the effort is *still* highly inadequate. And, therein lies the deep disappointment and the great sadness.

It has been five years since the publication of the Kerner report which painted a grim picture of where our society was headed unless urgent remedial steps were taken. Yet, we are still worrying about the essential commitment of the federal government in this crucial area. When the Kerner Commission told us how much trouble we were in, our greatest asset, as a society, was the array of civil rights laws and regulations already on the books and the broad ways in which those laws in conjunction with the activities of the federal government touch the country.

But in 1973 the Civil Rights Commission is telling us that despite a few bright spots, HEW is failing in its obligation to provide equal educational opportunity, the Federal Power Commission refuses to enforce equal hearing standards in the power industry, the Labor Department has downgraded the Office of Federal Contract Compliance, and on and on throughout the government.

The Commission noted that its earlier reports had been discouraging and said of the current report, "Our findings are dismayingly similar to those in our earlier reports." The report also contains a poignant appeal to the President to put energy and muscle into the

program. Almost two and a half years ago, on the issuance of the first of these reports on the Nixon administration's efforts we tried to point out that the Commission's work was not a spear in the chest of this particular administration, but rather, a continuation of the valuable contributions the Commission had been making over the years and, at least in part, a reflection of the legacy which the administration had inherited. We said, "In this particular report commission has handed Mr. Nixon an invaluable case study of what has gone wrong in civil rights enforcement and how it can be set right. We hope he will receive it that way."

Well, from this report, we can see he didn't. There is no question that we are now seeing Nixon administration policies at work. And that is the most disappointing thing of all, for the commission is not, as it points out, dealing with abstractions, but rather with the grainy texture of American life. It is talking about the education of American children, the access to the employment market of American workers and the access to the housing market of American families. And thus, for all his glittering successes in the international field, Mr. Nixon is failing the country if, because of a failure of will on the part of his administration we are asked to tolerate human misery which, in some measure, we have the tools to alleviate.

In the last analysis, we believe that Mr. Nixon and his administration will be judged by the standard laid down by President Johnson in his last major public appearance: ". . . the essence of government lies with unceasing concern for the welfare, dignity, decency and innate integrity of life for every individual, regardless of color, creed, ancestry, sex or age." It is a high standard, but it is fair and President Nixon has clearly failed to meet it.

U.S. ENERGY CRISIS

Mr. HANSEN. Mr. President, as we emerge from the fuel shortages of this unusually cold winter into warmer weather, American motorists will be taking to the highways once again to witness the renaissance of spring. Demands for motor fuel will experience their seasonal surge. But this year there are prospects ahead for gasoline shortages. Regretfully, the warm spring air will not bring an end to our national energy crisis, but simply lead us into another phase of it.

As the energy crisis deepens the public demands for action will intensify. Those of us who have been privileged to participate in the Senate's national fuels and energy study will be asked to provide some of the answers. Several of us have been able to anticipate the growing demand for solutions and are persuaded that the proper remedial action should be patterned to comprehend the causes. We are confident that the public will demand no less from us. Accordingly we recognize that the more that is known about the problem, that is, why we are having an energy crisis, the more able we will be to find the right answers.

I have admired the objectively of my colleague, Senator PAUL FANNIN, of Arizona, who has articulated with an economy of words the most cogent and objective analysis of the causes of our energy crisis that I have ever read. I would think that my colleagues and the public at large would find it similarly informative, and accordingly request unanimous consent that the distinguished Senator's amendment be printed at this point in the RECORD.

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

DOMESTIC FUEL SHORTAGES

We continue our hearings today into the causes of the winter 1973 fuel shortages amidst mounting public pressure to assign the blame, to discover a culprit, and to find and implement an "easy answer."

During the first day of these hearings some of the testimony reflected the pressure to find a scapegoat. Three candidates were identified: the major international oil companies, the Mandatory Oil Import Program, and the failure of the government—particularly OEP and the Oil Import Appeals Board—to accurately predict and to take action to prevent this winter's fuel shortages.

Some witnesses called for abolishing the Mandatory Oil Import Program, while others proposed the granting of various preferences to different segments of the petroleum industry. Yet another witness suggested the development of a government corporation to produce oil and gas—a proposal which I feel would remove opportunities for the petroleum industry to respond to the problem.

Mr. Chairman, today I would hope we can focus on the real causes of the fuels shortage rather than search for scapegoats. Additionally, I would suggest that the shortage is such a complicated problem that there are no "easy answers"—a fact fully confirmed by the thousands of pages of testimony presented during nearly forty days of hearings we have held to date on the energy crisis.

Why are we short of natural gas and fuel oil this winter? To find the answer we must turn the clock back a decade or so to the decision of the Federal Power Commission to impose an area rate basis for the regulations of the wellhead prices of natural gas. This action followed the Supreme Court Decision in the Phillips case to regulate sales of gas between producers and interstate pipelines. The result of these decisions has been a decline in exploration and development activities for new gas with most of what new gas has been found sold in intrastate rather than interstate markets. About a decade ago the reserve to production ratio for natural gas was 20 to 1. Due to the decline in exploratory activity, it has now dwindled to about 10–1. Because of the artificially low gas prices demand for this premium fuel concomitantly has accelerated at the rate of about 10% a year. The interstate pipelines are now curtailing gas—mainly to interruptible customers. I will return to the extent and consequences of the gas curtailments after first examining other developments which cumulatively have contributed to the fuel shortages.

The reduction in percentage depletion following the Tax Reform Act of 1969 has added about $500 million annually to the industry's tax bill—enough to drill about 5,000 new wells.

Price controls over the past eighteen months added to rising costs have squeezed profits and limited expansion of exploration and development activities, as well as placing economic constraints on the amount of distillates produced by our refineries.

The new consciousness about cleaning up the environment and a host of policy decisions responding to this consciousness has placed an additional burden on efforts to supply adequate energy to meet growing demands.

The cancellation of the December 1971 Outer Continental Shelf lease sale, which threw the Interior Department's five-year leasing schedule out of kilter, was caused by litigation brought by environmentalists.

The failure to begin construction of the trans-Alaska pipeline, and the recent court ruling on right of way, resulted from litigation brought by environmentalists.

The failure to construct many new nuclear power plants on schedule resulted in part from litigation brought by environmentalists and by others concerned with plant safety. Other factors, too, caused additional delays.

Air pollution legislation, coal mine health and safety legislation on the Federal level and other environmental legislation at the State level has severely restricted the growth of coal in meeting our national energy requirements and forced greater reliance on oil and gas. Yet coal is our most bountiful indigenous source of energy.

Environmentalist resistance to new refinery construction plus exemption of residual fuel oil from the Mandatory Oil Import Program contributed to the export of domestic refinery capacity.

Clean air requirements for automobile fuel usage have lowered the mileage on gasoline and placed an added demand for 12 million additional gallons per day.

Mr. Chairman, in connection with this I would like to call attention to a full-page advertisement by Mobil Oil Company in yesterday's Washington Post. The ad is headlined: "The $66 billion mistake." Experts employed by Mobil estimate that the costs of meeting the auto emission standards set by Congress will be $100 billion for the decade beginning in 1976. If these standards were reduced to a more realistic level, such as those which were proposed by the State of California, the cost for the decade would be $34 billion. So we will be spending an estimated $66 billion to attain only a relatively small reduction in emission levels.

In our hearings we are concerned about fuel consumption. Mobil says that cars built to federal standards could consume as much as 15 percent more gasoline per mile than cars built to California standards. This 15 percent would require refining an extra 30 million barrels of crude oil in 1976 and an extra 150 million barrels a year by 1980.

Already we are hearing from car owners who say their 1973 models are getting 6 to 8 miles per gallon of gas. There is speculation that under 1976 standards cars may get 3 to 5 miles per gallon.

Mr. Chairman, I cannot vouch for the validity of the figures worked up by Mobil, but it does seem to me that such data should be evaluated. When a gasoline company suggested ways of cutting gasoline consumption, it should be heard.

Now let me return to the situation which led to the curtailment of natural gas delivery this winter.

Low wellhead prices will have caused by the end of this winter the curtailment of nearly 500 billion cubic feet of natural gas by interstate pipelines. As I earlier indicated, most persons affected by the curtailments are known as "interruptible" customers, those who can either do without gas for much of the duration of the winter months or who are able to switch to distillate heating oil, or both.

On a BTU equivalent basis, in order to replace with oil the amount of gas (500 billion cubic feet) to be curtailed this winter, it would take about 83 million barrels of oil.

Thus, it is understandable that OEP testified that the demand for distillates in the fourth quarter of 1972 was 13% above the previous year and that the demand for distillates in the first quarter of 1973 will be about 9% above last year's first quarter.

Even with restrictions on No. 2 heating oil imports temporarily lifted, it will still be dif-

ficult to find enough on the world market to supplement our domestic refinery outputs. And for that mattter a domestic and worldwide crude oil shortage places limits on the amount of heating oil and other distillates our refineries can produce this winter.

Causing further demands for fuel and thus compounding the shortage of fuels have been:

An unpredictably cold winter, 12% more severe than the 30-year normal;

The Midwestern crop drying problem caused by a late harvest due to unusually damp weather;

A 6-10% rise in the consumption of diesel fuel by railroads, barges and trucks;

And an upswing in economic activity, causing even greater demands for fuel.

The list could go on—but what must be remembered is that many factors have contributed to the fuel shortage this winter and that any attempt to attribute the cause to any single event, person, or policy not only reflects a lack of understanding of the problem but tends to further confuse the issue.

Having now woven our way through the labyrinth of contributory factors resulting in the present fuel shortage, it logically follows that we most avoid the temptation to seek simple solutions. No single government policy—no single stroke of the President's pen can cure our national fuel deficiency.

On the contrary, the solution lies in many new policies, some of which should result from this study, some of which we trust will result from the President's energy message. Other developments will result from marketplace decisions reflecting in part government policy decisions—new and old.

The government—including both the Congress and the Executive Branch—has a long way to go in ensuring that we have remedied the causes while effecting the cure. This calls for complete cooperation of Congress, the President and the Administration along with the energy industries and the general public.

ALEXANDER PETÖFI

Mr. BROCK. Mr. President, it has been 150 years since the greatest genius of Hungarian poetry, Alexander Petöfi, 1823–49, was born.

Petöfi's poems are eloquent proof of his patriotism and his great love of the simple people of Hungary. His great craving for political and personal freedom, for democracy and equality of opportunity for all, his ardent dislike of all tyrannies renders him a poet well known in other lands and tongues as well.

These poems are now translated into more than 40 languages and we have several English editions. However, over and beyond the richness of style, the immediacy of experience and the esthetic values inherent in his works, Petöfi has been particularly noted for his role in the ill-fated Hungarian war of independence and for the example which he has bequeathed to Hungarians and all freedom-loving peoples and individuals.

His was not only a written confession of faith, he had lived by his principles and died for them. His tragic end of falling on the battlefield at Segesvar in Transylvania against the numerically stronger Russian armies, rendered him into a folk hero whose memory kindled the ardor of the young demonstrators before his statue on October 23, 1956, in Budapest.

We in America cherish his memory, his dedication to the freedom of all peoples and hope that the noble principles which he espoused will remain forever in the hearts of his countrymen despite oppression and lack of freedom today.

SCHOOL OF THE OZARKS

Mr. EAGLETON. Mr. President, Mr. Richard Martin has contributed an excellent article to the Wall Street Journal concerning the School of the Ozarks in Point Lookout, Mo.

The School of the Ozarks is unique in its approach to postsecondary education. All students enrolled in the tuition-free school work during the school year and the summer in order to help pay their tuition. They raise their own meat and dairy products, build their own classroom facilities and dormitories, and run many campus industries for profit.

I know the campus community and all of Missouri are justifiably proud of the contribution this school is making in educating young people in the area.

Mr. President, I ask unanimous consent that Mr. Martin's article be printed in the RECORD.

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

AT SCHOOL OF OZARKS, THE STUDENTS FLUNK OUT IF THEY SHIRK CHORES

(By Richard Martin)

POINT LOOKOUT, MO.—"Work is love made visible," says an old bronze plaque on the campus.

And they really seem to believe that here at the School of the Ozarks, one of the most unusual little liberal-arts colleges in the country.

Commitment to the good-old-fashioned work ethic, in fact, runs so deep here that honest toil is an integral part of the curriculum. Students don't pay room, board or tuition here, they work their way through college doing everything from typing tests and mopping floors to driving bulldozers, butchering hogs and selling orchids—and those who shirk their assigned campus jobs flunk out.

The college is an educational anachronism in some respects: Its a bastion of short hair, strict parietal rules and compulsory chapel twice a week; it's a place where the whole faculty teaches and good grades are important. But it's noteworthy in other ways, too: It's innovative and imaginative when it comes to finances and fund-raising; it's a pioneer at supplementing liberal-arts studies with practical vocational skills.

"The School of the Ozarks represents an idea whose time has come," says William W. Gordon, executive vice president of the Council for Financial Aid to Education Inc., a New York nonprofit organization set up to encourage contributions to higher education. "Integrating more occupational education with the liberal arts is an important new trend in higher education, and one that has been too long in coming."

TREMENDOUSLY IMPRESSED

On a recent visit to the school, "I sat in on some classes, and I was quite impressed," Mr. Gordon says. "The level of teaching isn't up to Stanford or Harvard or the University of Chicago, of course, but it is pretty good, and it's right up to date. I think they ought to throw off some of their parochialism and draw students from a wider area, but overall I'm tremendously impressed with the place."

School of the Ozarks, founded by a Presbyterian preacher in 1906, originally was a free boarding school where hillbilly youngsters came to learn to read and write and earned their keep by doing chores and raising their own food. It evolved into a junior college by 1956, switched to a four-year curriculum in 1964 and became a fully accredited liberal-arts college in 1969.

But students still earn their keep, working four hours daily after classes during the 42-week school year and working full 40-hour weeks between trimesters during three of their 10 weeks off. That's a total of 960 hours a year. They earn credit, not cash, at a rate of $1.60 an hour, which means they work off 28% of the $5,374-a-year cost of housing and educating them.

Supervised by a small full-time staff, students still do most of the chores and produce their own meat and dairy products. They also build dormitories and classrooms and run a score of profit-making "campus industries," including an airport, farm, summer theater, candy kitchen, taxidermy shop and restaurant.

A TOURIST ATTRACTION

The school sits on a bluff above Lake Taneycomo in the scenic southwest corner of Missouri, and it's a minor tourist attraction. There's a big neon sign advertising the school on Highway 65, a miniature train to haul tourists around the 900-acre campus and a student-run gift shop selling fudge, fruitcakes, jams, candles, pottery, quilts and $100 nativity sets produced by the campus industries.

About 80% of the 1,074 students still come from the Ozark hills along the Missouri-Arkansas border, mostly from hardscrabble farms and towns with names like Blue Eye, Oscar and Owls Bend. The bulk of the other 20% are from rural areas of adjacent states. Most were B students in high school. They are admitted largely on the basis of need and about three out of four applicants are turned away. In a survey of this year's incoming freshmen, 91% said they chose the school because they couldn't afford to go anywhere else. Only 30% said their family income was over $7,500, and just 17% said it was over $9,000.

They look and act and talk pretty much like college students anywhere. They have the usual array of pictures and campus heroes like W. C. Fields and Gloria Steinem in their cluttered dormitory rooms, and they have the usual gripes about food, faculty and administration. A few chafe openly at some of the rules (no beards, "tasteful" attire, 11 p.m. weeknigh curfew, and 1 a.m. weekends, no smoking except in the dorms and the student union), but they abide by them. Students' cars are kept off campus in a fenced lot that's open on weekends and reluctantly unlocked weeknights for those with outside jobs.

I LIKE IT HERE

The isolation bothers some. A little cafe in a gas station across the highway from the main gate is the closest thing to an off-campus hangout. It's two miles to a bowling alley; six miles to a movie, dance hall or beer joint. The nearest city of any size is Springfield, 40 miles away. (But in nearby Branson, Alexander's drugstore still sells five-cent double-dip ice cream cones and 10-cent sundaes.) There isn't much to do on campus, besides work and study. Except for occasional old movies, guest lecturers and cultural offerings like the Memphis State String Quartet and Jose Greco's troupe, the main diversions are swimming, handball, tennis and pool.

Nevertheless, most students seem content. "I like it here," says Mike Friend, a freshman business major. "I didn't want to graduate from college with a big debt hanging over my head." Betty Jo Biggs, a senior psychology major, calls it "a super neat place to go to school." She adds: "I'm even glad we've got a dress code when I go somewhere else and see

all the freaky looking guys with long hair and beards and the girls wearing curlers."

"Students dislike the stigma of going to a school for poor kids, even if they are poor," says Maxine Trimble, associate dean of students "I think most of them really do love the school. It isn't wall-to-wall Camelot, but it's a nice place. I don't think they're ungrateful for the opportunity to be here."

It's a good thing they aren't. "Ingratitude is one thing that absolutely outrages me," declares M. Graham Clark, the crusty, authoritarian, 64-year-old president of School of the Ozarks. He left a $40,000 job as an Atlanta insurance executive in 1946 for a $3,000 job as vice president of the school, and he has been here ever since.

He became president in 1952, and he gets most of the credit for transforming a seedy, second-rate high school into a burgeoning little college. He did it by traveling tirelessly to raise funds while running the school almost singlehandedly. He once crawled out from under a road grader he was repairing to greet a lawyer from a foundation. "That turned out to be worth about $500,000 to us," recalls Mr. Clark. "He'd never seen a college president working before."

He's an effusive gladhander and speechmaker, with a hill country joke or a Bible quotation for every occasion. He's also a tough administrator, who has two-way radios as well as telephones in his car and at his bedside to keep him in constant touch with every corner of the campus. The vice presidents call him "Godfather." ("Some guys around here won't even start a truck without an okay from him," says one.) "Sure I'm a dictator," drawls Mr. Clark. "But I'm a benevolent one."

He's paid $26,000 a year as president, less than some of the vice presidents make. "But I also have some wonderful fringe benefits, like free milk from our fine dairy and getting to travel all over the world to tell people about School of the Ozarks," he says.

Like many other private colleges and universities, the school is in deficit right now, borrowing from banks to pay current operating costs. The deficit was $451,000 last year. The school has assets of $24 million, though, including some 870 scattered acres of nearby farmlands, pastures and woods, and some common stocks that could be sold if the pinch gets too tight. "Right now we're better off holding those investments and borrowing at the prime rate," says Mr. Clark. "We obviously can't continue to operate this way indefinitely, but I'm convinced that God will provide."

He's also convinced that the Lord helps those who help themselves, judging from the magnitude of the school's fund-raising activities—an unceasing and highly successful campaign of personal entreaties backed by blizzards of direct-mail appeals. Individual contributors' cash gifts, bequests and private trust funds brought the school $2.4 million in cash last year, or two-thirds of its entire cash income. (Of the remaining $1.2 million, the school's $7.5 million endowment brought in $293,000 cash, campus industries netted $540,000, federal grants totaled $270,000 and foundations gave $82,000.)

Some 60,000 visitors last year trooped through the school's gift shop and museum or went to plays in the summer theater or heard concerts on the massive old Wurlitzer theater organ in the auditorium, and many of those visitors gave money to the school. "There's a 50-50 chance that anybody who visits this place will become a contributor," figures John P. Knox Jr., vice president for development, "especially people who grew up during the Depression and had to claw their way up. They come here and immediately identify with what we're doing and see the merit of it."

School officials say they never turn down a gift. "We'll take anything from flowers to broken down jalopies," says Mr. Knox. A retired orchid raiser gave them four greenhouses full of rare orchid plants last year. A milling executive has just built a replica of an 1850 water mill that's selling stoneground corn meal to visitors and to bakeries in Little Rock and Springfield. The sprawling, three-story museum overflows with relics, artifacts and collections of things ranging from apothecary jars to vaudeville props, all given by hundreds of individuals.

"We'll build a school of horticulture complex around the orchid greenhouses and sell blooms," says Mr. Knox. "The orchids will attract people, just as the mill and museum do. These things all draw people of varied interests and keep them coming back."

Mr. Clark's physician gave the school its first plane seven years ago when Mr. Clark was driving a car 72,000 miles a year "selling the gospel of the School of the Ozarks." That led to a dozen more planes and a small campus airport that pumps 100,000 gallons of gas a year, has 3,000 takeoffs and landings a month during tourist season and offers flying lessons, rentals, charters and air-taxi service.

Corporate donors send the school vitamins, toothbrushes, mouthwash, foodstuffs and pharmaceuticals. Used clothing from church groups and sample merchandise and seconds from shoe companies and apparel makers come into the campus thrift shop, which sold or gave away 22,000 items to students last year, including 1,568 pairs of J. C. Penney display shoes that sold for $1 to $3 and some shopworn wedding gowns from an Iowa store that went for $3 each.

School officials are avid bargain hunters. "I've never seen anyone stretch dollars like they do; nothing is wasted," says Mr. Gordon of the Council for Financial Aid to Education. About 75 percent of the school's equipment, everything from lights and file cabinets to motorscooters and cement mixers, comes from government surplus sales. One end of the campus is a junkyard of trucks, busses and heavy machinery being cannibalized to keep generators, dredges and other equipment running.

Students in the machine shop built the campus fire engine last year. Students in the construction shops, aided and supervised by 50 staff tradesmen, are building a $1.1 million student union, a $1 million science building, a $135,0000 horticulture building and a new museum wing. "It takes us longer, but we can pretty well count on a 25 percent saving on construction costs," says William D. Todd, vice president and dean of administration. He says the union will take two years to build, "twice as long as it would take an outside contractor."

"People who come here and see these things are impressed, and they're going to remember that they can get more for their dollars here than they can by giving them somewhere else," says Mr. Knox, who worked out what may be the ultimate in money streching in arranging financing for the new student union.

He took $250,000 that alumni had raised for the $1.1 million building and invested it in bonds paying 7 percent interest. The government will pay two-thirds of the 9 percent interest costs on the $1.1 million bank loan under a Housing and Urban Development Department program. Income from a 500-seat public restaurant, a 12-unit motel and a bowling alley in the new union is expected to pay off the loan over a 20-year period, leaving the school with the alumni's original $250,000 still intact.

Campus industries that can't at least come close to covering the costs of employing students don't last long. A cannery and a sawmill were closed years ago, and the furniture factory no longer makes furniture—it refinishes pieces for dormitories and offices and makes walnut gun racks, picture frames and footrests instead.

"We used to be a big maker of church pews and other furniture for churches," says Mel Walker, the manager. "But we finally swore off that business. Churches just aren't the world's best customers when it comes time to pay their bills."

The school is getting into the stained-glass business now. A banker who foreclosed on a stained-glass company in St. Joseph, Mo., "called me one day and asked if I'd like to have the inventory of glass and lead," President Clark explains. "He'd heard me talk somewhere, and he thought we could use it for a student industry." Pointing out a colorful grouping of stained-glass fish on a bookshelf in his office, he adds: "Some nut offered me $200 for that thing the other day. Why it's nothing but a few pieces of glass, a little bit of lead and some good imagination. We could sell a lot of little things like that in our gift shop."

The school offers majors in 22 academic fields. An accreditation committee of the North Central Association of Colleges and Secondary Schools, in April 1971, found "a lack of academic excitement" here, but said: "The faculty is generally competent, in some cases outstanding." There are 30 faculty members who have PhDs; the other 37 have master's degrees.

Nearly all faculty members carry 12-hour teaching loads, heavier than loads on most campuses. Most teach all three trimesters a year. Salaries range from $7,600 to $18,300.

There's a fat file of applicants for faculty jobs. "We've got a whole student body here that's well motivated and willing to work hard; you don't find students like that in a lot of schools," says Bob Hendrickson, chairman of the six-man English department. "I worked all during junior high and high school growing up in Tulsa, and I worked 40 hours a week to get through college, so I feel I can understand these kids' feelings and relate well to them," adds Mr. Hendrickson.

David B. Oliver, 30-year-old chairman of the two-man sociology department and a specialist on problems of the aging, turned down recent job offers "for considerably more money" from two big state universities and an Ivy League school. "I can do my research here and still have the contact with students that I like," he says. "Of course, people also like it here because it's not only a good place to teach other kids, it's a good place to raise your own."

The academic program is gradually becoming more vocationally oriented. "I don't want to see us throw out the true liberal-arts program, but getting a job nowadays with only a liberal-arts education gets to be a problem," says Mr. Clark. "When a student leaves here we want him to feel confident that there's a job waiting for him out there."

He says he'd like to "offer a degree in aviation-airframe-and-power-plant mechanics, and I'd like to turn out real good computer programmers with degrees. Maybe we should even offer a degree in milling—not for a dusty man running a grinding machine, but for mill mangers who would leave here knowing the business inside out."

Karl Jensen, a senior with a dual major in history and criminal justice, says his most meaningful learning experiences came not in the classrooms but on the jobs he held at the dairy, airport and fire department. He's chief of the 22-student fire company now, and he says: "I've learned to take responsibilities and have had the opportunities to take them that I just wouldn't have had anywhere else." He hopes to work his way through law school somewhere as a policeman or fireman.

About 12% of the students flunk out or drop out annually. "We get some whose parents or other relatives have pushed them into coming here, hoping that the school would do them some good, maybe straighten them out; they usually don't last long," says Howell Keeter, the associate dean who supervises the

work program. The "junior blues" cause some attrition, too, says Wayne Huddleston, vice president for academic affairs. "That's when a kid running a crane or bulldozer realizes that with the skill he already has he can leave and make more money than he can by staying here and getting a degree."

Nearly 70% of the school's graduates in the past have become teachers, mostly in nearby rural districts. A smattering go into engineering, accounting, medicine and law. The rest go into business.

This year's campus recruiting schedule includes American Telephone & Telegraph's long-lines division, Brunswick, General Electric, S. S. Kresge, Southwestern Bell and Zenith in addition to a clutch of federal agencies and some local employers from Springfield. The school's graduates "are probably the most industrious students I have come across," says Fred Bumgarner, a Southwestern Bell recruiter who has hired several in the past. "They rank with almost any we see in any other schools in Missouri."

Fred M. Morrow, superintendent of schools in Poplar Bluff, Mo., which has 300 teachers in 14 schools, says has hired "six or seven" School of the Ozarks grads over the past few years. "They are hard workers who have learned a real sense of responsibility. We're very pleased with them," he says. "I wish my own kids would have had a chance to go there."

THE RETURNING POW'S AND ART BUCHWALD

Mr. BROCK. Mr. President, we have had the great privilage in recent weeks to welcome home to their native land hundreds of brave and patriotic Americans who loyally served their Nation in time of war and, as a result, were captured, imprisoned and separated from their families for 4, 5, and 6 years or more. The occasion of their return inspired in almost every American, I am sure, feelings of thankfulness and of pride in men who have demonstrated so convincingly that the fiber of this Nation remains strong, that its heart remains great. If it was an occasion of joy, Mr. President, it was also one of dignified respect for these men who suffered so much for their country.

And yet I have read in this morning's Washington Post a supposedly humorous column by Mr. Art Buchwald which uses these men, these prisoners of war, as comic tools to titillate the bizarre tastes of the residue of its antiwar, antipatriot, anti-American readership. Mr. President, our Nation is large enough to afford jokes at its expense; our Government, this Congress, can afford jokes at its expense. Indeed, that is a great tradition in America. But it is not a tradition to play upon the suffering of brave and selfless individuals as a device to inspire laughter in those whose sense of humanity is so remote that they remain immune to that very suffering on the part of their fellow countrymen.

This column, Mr. President, appears in that portion of the Washington Post which its editors dubiously title the "style" section. It illustrates the extent to which journalism today cannot only lack style but also common good taste. Happily, most columnists do not indulge in this sort of thing, and, hopefully, the vast majority of our returned prisoners of war and their families will be spared this latest sampling of Mr. Buchwald's "humor."

THE FEDERAL TRADE COMMISSION AND CORPORATE SECRECY

Mr. JOHNSTON. Mr. President, on March 8 the Subcommittee on Monopoly and the Subcommittee on Retailing, Distribution, and Marketing Practices of the Senate Small Business Committee convened a joint public hearing on the subject of corporate secrecy and conglomerate mergers. Our notice of the hearing, which included some important background materials, appeared in the CONGRESSIONAL RECORD of February 28, at page 5780.

Prior to, during, and since the March 8 hearing, the two subcommittees have been shaping a detailed set of written interrogatories for the Federal Trade Commission. That document has now been completed and delivered to FTC Chairman Engman.

The general subject of the March 8 hearing was the FTC's power to collect and publish product-line and divisional information of giant corporations. The particular focus was the Commission's recently released staff report, Conglomerate Merger Performance: an Empirical Analysis of Nine Corporations.

Our interrogatories to the Commission are concerned with both the general and the particular subjects. We promised, both in the notice of the March 8 hearing and at the session itself, to publish in the CONGRESSIONAL RECORD either a summary or the full text of our questions to the FTC, when they had been completed and sent.

Because of the length of the 21-page questionnaire we delivered to Chairman Engman, it seems more appropriate to include in the RECORD only excerpts rather than the full text. Copies of the complete document may be obtained by writing to the Senate Small Business Committee, 424 Russell Senate Office Building, Washington, D.C. 20510, or by telephoning the committee's offices at 202–225–5175.

Our subcommittees' interrogatories to the FTC are especially timely for inclusion in the RECORD this week, because of their great pertinence to the debate on corporate secrecy and corporate disclosure in the economic stabilization program.

Accordingly, Mr. President, I ask unanimous consent to insert in the RECORD at this point excerpts from the letter sent on March 15 by Monopoly Subcommittee Chairman GAYLORD NELSON and by me, as Marketing Practices Subcommittee chairman, to FTC Chairman Lewis A. Engman, and excerpts from the interrogatories that accompanied the letter.

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

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

HON. LEWIS A. ENGMAN,
Chairman, Federal Trade Commission, Washington, D.C.

DEAR MR. CHAIRMAN: As you know, the Subcommittee on Monopoly and the Subcommittee on Retailing, Distribution, and Marketing Practices of the Senate Small Business Committee began public hearings on March 8 on the subject of "Corporate Secrecy: Conglomerate Mergers." * * *

The Federal Trade Commission historically has been, and still is, the small businessman's best source of information about the operations of giant corporations. The Commission's several recent proposals to expand still further its service to small business and the economic community by collecting and publishing increasing amounts of data about the operations of large corporations, by product line, have our warmest commendation and support. A principal purpose of our present series of hearings is to obtain detailed information on those proposals and on the current status of each. We shall wish to give the proposals all the aid and encouragement we can.

The Nine Conglomerates study released by your Commission on January 3, 1973, is of particular interest and importance in our subcommittees' study of corporate giantism and corporate secrecy, and was the principal subject of our March 8 hearing. The strongest and clearest conclusion of the Nine Conglomerates study was that there is a serious information loss from the expansion of conglomerate corporations.

* * * * *

With that conclusion there can scarcely be any argument; yet there is an anomaly. The Commission's staff report reveals, on the face, that meaningful data were obtained from only a small fraction of the 348 companies whose acquisitions by the nine conglomerates were the subject of the empirical study. The report, on its face, also reveals a decision by the Commission to withhold all the individual-company data that were collected—data of precisely the type the report says is needed. Finally, Professor Boyle's article in the New York Law Journal suggests that the absence of individual-company data in the report was due to a promise to the corporations made by only one Commissioner possibly under mistaken or insufficient authority.

To clarify our understanding of these matters, and to provide a checklist of the various subjects in which we are interested, we have prepared four sets of questions to which we hope the hearings on which we have embarked may eventually provide answers. Copies of these four sets of questions are enclosed, captioned as follows:

Question No. 1.—Purposes of the Nine Conglomerates Study, and How They Were Met. (Preface, one general question, and seven particularized questions.)

Question No. 2.—Methodology of the Nine Conglomerates Study. (Preface, one general question, and 14 particularized questions.)

Question No. 3.—Information Obtained in the Study but Withheld from Publication. (Preface, one general question, and six particularized questions.)

Question No. 4.—Other Corporate Information-Gathering Activities of the Commission. (Preface, one general question, and eight particularized questions.)

While we have invited the witnesses at our March 8 hearing to answer, comment on, or suggest additions to these questions, it would appear that definitive answers to most of them can be provided only by your Commission.

Ordinarily, we would have asked the Commission Chairman or all Commissioners to be the first witnesses at such hearings as these. However, it was important for us to take Professor Boyle's testimony while he remained in private life, and he is going to join the staff of another Senate subcommittee within the next few days. Therefore, we arranged the first session to hear from him, along with others involved in the Nine Conglomerates study at the staff level in the

Commission. At the earliest mutually convenient date, we shall hope to hear from all present members of the Commission, and perhaps some former Members. Our staff will be in touch with your office about arrangements.

In the meantime, we should appreciate your consideration of the enclosed questions and your courtesy in providing, on behalf of the Commission, official written answers to as many of them as you can, as soon as you conveniently can.

We are already indebted for your interest in and aid to our work, as manifested by your cooperation in making Dr. H. Michael Mann, Director of your Bureau of Economics, available as a witness on March 8.

With best wishes,

Sincerely,

GAYLORD NELSON,
Chairman, Subcommittee on Monopoly.
J. BENNETT JOHNSTON,
Chairman, Subcommittee on Retailing, Distribution, and Marketing Practices.

QUESTIONS TO WHICH THE SUBCOMMITTEE ON MONOPOLY AND THE SUBCOMMITTEE ON RETAILING, DISTRIBUTION, AND MARKETING PRACTICES OF THE SENATE SMALL BUSINESS COMMITTEE HOPE TO OBTAIN ANSWERS DURING HEARINGS ON "CORPORATE SECRECY: CONGLOMERATE MERGERS," BEGINNING MARCH 8, 1973

QUESTION NO. 1.—PURPOSES OF THE NINE CONGLOMERATES STUDY, AND HOW THEY WERE MET

Preface to question.—The report on the Nine Conglomerates study describes several hypotheses about conglomerates and congloerates mergers. The purpose of the study was to *test* those theories *empirically*. The need for such testing was stated by Commissioner Mary Gardiner Jones in her "Separate Statement" dissenting from the transmittal to the Congress of the first part of the FTC's study of mergers, of which the Nine Conglomerates report is the second part.

* * * * *

The various hypotheses to be tested are briefly identified in Chapter I of the staff report on Phase Two—the Nine Conglomerates study. Then, in Chapters III and IV, the report presents a series of tables, with interpretive text, showing the numbers of companies, from among the 348 acquired by the nine conglomerates in the nine-year period studied, from which some data had been obtained tending to substantiate or refute the several theories.

Following are two examples of the major theories about conglomerate mergers *and the numbers of companies, out of a possible 348 in the total sample,* from which the FTC study obtained data having some bearing on the correctness of the theories. This summary also shows whether the data were presented with or without identification of individual companies among the nine conglomerate acquirers and the 348 acquired firms.

[NOTE.—There follows a discussion, omitted in these excerpts, of the report's treatment of the subjects of synergism and advertising expenditures, with reference to tables 3–1, 3–2 and 3–3 of the report. The point is made that the report's conclusions on these theories were based on data obtained from only 100 of the 348 acquired companies in the sample.]

The Questions. In general, can it be said that the study achieved its purposes of empirically testing certain hypotheses about conglomerate mergers by collecting data relevant to the hypotheses from 348 companies acquired by nine conglomerates?

In particular, with reference to the two hypotheses and the tests thereof discussed above—

A. Synergism

Question 1–A–1. Why could not relevant data about each of these totally objective indicators of administrative-function and management changes have been obtained from *all 348* acquired companies in the sample?

Question 1–A–2. Were the 99 companies for which data were presented in Table 3–1 all among the 100 companies for which data were presented in Table 3–2 and on page 62?

Question 1–A–3. Could not these 99 or 100 companies have been further identified by products or industries, if not by individual-company names?

Question 1–A–4. If there had been such product-line or industry identification, what additional insights into the correctness of the theory being tested—"synergism"—might the report have provided?

B. Advertising Expenditures

Question 1–B–1. Why could or why did not the Commission obtain before-and-after data on advertising/sales ratios from more than 44 of the 348 acquired companies?

Question 1–B–2. How did two of the nine conglomerates escape providing any information whatever on this part of the empirical testing of theory?

Question 1–B–3. Would it be possible now for the Commission to provide, for publication in this record, a further tabulation showing how many of the 44 companies from which data were obtained on this subject were "dominant" and "non-dominant" companies in their industries, and showing how many companies of each of those types increased and decreased their advertising/sales ratios?

QUESTION NO. 2—METHODOLOGY OF THE NINE CONGLOMERATES STUDY

Preface to question.—The preceding questions (under Question No. 1) relate to the *purposes* of the Nine Conglomerates study and the extent to which those purposes were fulfilled by the method used for the testing of the hypotheses.

By this question and its subparts, we seek to elicit more details of the methodology itself, the reasons for its selection, the manner of carrying it out, and the problems that arose in carrying it out.

The Questions.—In general, was the method selected for the testing of the hypotheses a good and sufficient one, and the best of the alternatives available?

In particular—

Question 2–1. On page 24 of the report, we find three criteria established by the Bureau of Economics for inclusion of a conglomerate corporation in the sample. To be included, a conglomerate had to meet at least two of the three criteria. At the time the nine conglomerates of the sample were selected, about how many companies in the United States (total) could have qualified by meeting two of those three criteria? (Over 20? Over 100?)

NOTE:—The three criteria were: (1) each company selected should have sales of $1 billion or more; (2) each company selected should have made six or more acquisitions involving firms with assets of $10 million or more; and (3) the company should have engaged in a pattern of basically unrelated acquisitions.

Question 2–2. Was there prepared, at the time the sample was being selected, a list naming *all* companies in the United States that met two or three of the criteria, and indicating *which* two or three of the criteria each company met? If so, could we have, for publication in this record, a copy of that list?

Question 2–3. Why were only nine conglomerates selected for the sample?

Question 2–4. Having selected the nine conglomerates (and thereby the 348 acquired companies) that would be used as the sample within which empirical tests of hypotheses about conglomerates would be conducted, how did the Bureau of Economics (and the Commission, if the Commission participated in the decision) select the method or methods it would employ to gather the requisite information from the nine conglomerates?

NOTE.—By this question, we seek to elicit both official records and unofficial recollections of all witnesses having knowledge on the subject.

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[NOTE.—Questions 2–5 through 2–8, inclusive, omitted from these excerpts, pertain to the questionnaires used in conducting the study of the nine conglomerates.]

Question 2–9. Were the questionnaires sent to the conglomerates entirely the work product of, and passed upon only by the Bureau of Economics, or did the Commission, or any Commissioner, participate in the drafting of, or pass upon, the form or forms of questionnaires used?

NOTE.—By this question, we seek to elicit fullest information on the extent to which the survey was conducted by the Bureau of Economics independently of the Commission or any Commissioner, and, if it was not, the nature of the Commission's or any Commissioner's participation. We are especially interested in knowing whether and to what extent the interchanges of opinion and the lines of control, as between the Bureau of Economics on the one hand and the Commission or any Commissioner on the other, conformed to or differed from usual Commission practice and procedure.

Question 2–10. Could we have, for publication in this record, a complete chronological list of the procedural steps taken within the Commission, in or out of the Bureau of Economics, involving the planning, conduct and completion of the Nine Conglomerates study?

NOTE.—The following question, 2–11, should be read in connection with and before answering this question. By this question, 2–10, we seek to elicit a complete list of events and decisions, in chronological order, involving the study *over-all.* (In the following question we ask for a comparable chronological list for each separate conglomerate.) In the list solicited by this question, please include the date and a description of each "event" (as defined in the note following the next question) that pertains to the entire study, or to two or more conglomerates, or to procedures and methods in general, rather than to a single conglomerate. This list should include *all* events of the types described in the note following the next question, unless the event only involved *one* of the nine conglomerates and is therefore reported on its individual list. In particular, we should like this general list to include notations identifying the dates and nature of policy meetings and discussions involving personnel of the Bureau of Economics and the Commissioners or members of their personal office staffs.

* * * * *

Question 2–11. Could we have, for publication in this record, nine complete chronological lists, one for each of the nine conglomerates, identifying and briefly describing *all* official events that occurred between or that involved both the Commission and the conglomerate during the course of the Nine Conglomerates study? The list for each conglomerate should, to the extent practicable, include identification of proceedings or transactions involving both the Commission and the conglomerate that occurred during the course of the study, *even though separate and apart from the study.*

NOTE.—By this question, we seek a complete catalogue of official documents and memoranda, not copies of the papers themselves. We should like to have identification of each date on which an event occurred, and a description of the event. As used here,

an "event" would include but not be limited to correspondence of all kinds, such as questionnaires, letters and memos; meetings between Commissioners and representatives of the conglomerate; meetings between Commission staff personnel and representatives of the conglomerate; telephone conversations between Commission and conglomerate personnel of which official memoranda were retained; the filing of any legal papers in any court; the conduct of any legal proceedings, including formal hearings, meetings in judicial chambers, the entry of decrees, orders or opinions; the making of any formal or informal, written or unwritten agreements as to procedure for the furnishing of data and the treatment (in confidence or otherwise) of data furnished; and the making of a decision that the study, as to a particular conglomerate, was "completed." * * *

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Question 2–12. We understand that the Commission maintains a daily log of the time spent on major projects by all personnel of the Commission, and that there accordingly exists a computerized record of the individual and aggregate personnel hours and days spent on the Nine Conglomerates study. Is this understanding correct? If so, could we have a printout showing the individual and aggregate man-days spent on the project and a tabulation of the total recorded cost of the Nine Conglomerates study to the Commission, itemized to the same extent that such records regularly are itemized for the Commission's own internal budgeting and auditing?

Question 2–13. Some of the theories about conglomerate mergers that were being tested by the Nine Conglomerates study were concurrently being tested in both public and private civil antitrust litigation. Indeed, some of the 348 acquisitions or mergers that were the subject of this study were the subject of civil antitrust actions filed by the U.S. Department of Justice under section 7 of the Clayton Act. Similarly, some of the same theories were the subject of both qualitative and quantitative discussion in the hearings and staff report on conglomerates of the House Judiciary Subcommittee on Antitrust. Why did the Commission's final staff report make no mention of the evidence pertinent to the theories being tested and to the Nine Conglomerates that was contained in the Justice Department and other litigation and in the House Subcommittee's study?

Question 2–14. Could we have, for inclusion in this record, a complete list of all litigation under the antitrust laws that involved or involves any of the 348 acquisitions or mergers that were the subject of the Nine Conglomerates study?

* * * * *

QUESTION NO. 3—INFORMATION OBTAINED IN THE STUDY BUT WITHHELD FROM PUBLICATION

Preface to question.—As pointed out in the earlier questions, the Commission not only failed to obtain essential data from many of the 348 acquired companies, it withheld from publication many of the data that it did obtain.

In an article in the *New York Law Journal* of January 29, 1973, Professor Stanley E. Boyle, consultant to the FTC and a principal author of the study, [wrote that data collected from the nine conglomerates showing rate of return of each business division, including the acquired companies, had been withheld from publication, due to an agreement with the companies made by one Commissioner, without informing staff or other Commissioners.]

The Questions.—In general, what is the nature and scope of information collected from the nine acquiring conglomerates and the 348 acquired companies of the study, but withheld from publication?

In particular—

Question 3–1. At some point in the Nine Conglomerates study, as is suggested by Professor Boyle's article and is apparent from the published report, a policy decision of major importance was made: to withhold from the public any individual-company data collected from or about any of the nine conglomerates and 348 acquired companies, with the sole exception of data already in the public domain. When, by whom, and for what reasons was that decision made?

Question 3–2. Under what authority, in statute or in Commission rules and regulations, was that decision made?

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Question 3–3. Could we have, for publication in this record, a description date-by-date and conglomerate-by-conglomerate, of all correspondence and negotiations leading to, and deemed by the Commission to explain or justify, the withholding from the public of individual-company data collected in the study? The Commission's answer to this question could, most helpfully, include copies for the record of any written agreements with any or all of the conglomerates, by which they were assured that individual-company data would be withheld from the public.

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Question 3–4. The published report contains tables in Chapter IV in which the number, market share and value of shipments of the products manufactured by the nine conglomerates are described in various statistical arrays. To the extent not covered by promises of secrecy, could we have computer printouts of individual-company data, identifying company names, products at the 5-digit SIC level, and values of shipments for all available years?

* * * * *

Question 3–5. The published report at no point names the 348 acquired companies that were its subject. Since those names presumably are in the Commission's possession, could they now be furnished to this subcommittee for publication by it? If so, we should like to have nine lists, one for each of the nine conglomerates, showing the names and other key data for each of the companies which it acquired and which were included in the study. The nine lists collectively should name 348 companies. It would be most helpful if the lists were organized with the acquired-company names at the heads of columns, and, in lines down the page, under each name, there were presented as many of the following items of information as can be made available to the public at this time.

(1) State (or country, if foreign) and year of incorporation.

(2) Symbol indicating whether the company, before acquisition, was public or closely held.

(3) Symbol indicating whether the company filed its own, separate annual (10–K) reports with the Securities and Exchange Commission before acquisition and/or after acquisition.

(4) City (cities) and state(s) or countries in which company's principal plants and offices are located.

(5) Company's total number of employees at time of acquisition and for all other years, before and after acquisition, for which you have that information.

(6) Name(s), SIC number(s) and value(s) of shipments for each industry in which company was engaged at time of acquisition, and the same data for all other years, before and after acquisition, for which you have that information. In any year for which more than one SIC is listed, please list them in the order of their importance to the company.

(7) Company's rank in its most important two SIC industries at time of acquisition.

(8) Company's rank in its most important two SIC industries three years after acquisition.

(9) Value of company's total assets at time of acquisition and for all other years, before and after acquisition, for which you have that information.

(10) Stockholders' equity in company at time of acquisition and for all other years, before and after acquisition, for which you have that information. (If the acquired company was merged, dissolved or otherwise legally discontinued but remained physically in existence and operation, as a division or otherwise, show pro forma stockholders' equity figures if available.)

(11) Price received by sellers of acquired company from acquiring company.

(12) Date of acquisition.

(13) Company's annual net sales for year of acquisition and for all other years, before and after acquisition, for which you have that information.

(14) Company's annual net profit *before* income taxes for year of acquisition and for all other years, before and after acquisition, for which you have that information. (Please list separately before-tax profit per books and per Federal income tax return.)

(15) Company's annual net profit *after* income taxes for year of acquisition and for all other years, before and after acquisition, for which you have that information. (Please list separately after-tax profit per books and per Federal income tax return.)

Where an item of the requested information exists or is believed to exist but was not obtained by the Commission, a symbol such as "N.O." (for "Not Obtained") should be used. Where an item of requested information does not exist or is not applicable, a different symbol, such as "N.A." (for "Not Applicable"), should be used. Where an item of information was obtained by the Commission but is withheld by reason of a promise of condentiality, another symbol, such as "S" (for "Secret") should so indicate.

We do not wish to receive any information that we cannot publish, but we would like to know the nature and extent of any such information obtained by the Commission.

Question 3–6. We understand that there was prepared an earlier, more detailed draft of the report on the nine conglomerates study. Could the subcommittees now have, for publication in this record, a copy of that draft? If not, we should appreciate having a copy of such parts, not included in the published report, as might now be published, a description of the omitted parts, and an explanation for their omission.

NOTE.—We hope to obtain, in response to this question, not only all profit data by divisions, subsidiaries, profit centers, product lines, etc., for the nine conglomerates, which were included in the original draft, but also any such data that can now be made available for publication which were not included in the unpublished draft.

QUESTION NO. 4.—OTHER CORPORATE INFORMATION-GATHERING ACTIVITIES OF THE COMMISSION

Preface to question.—Under section 6 of the Federal Trade Commission Act, the FTC has broad powers to collect information from "any corporation engaged in commerce, excepting banks and common carriers." The information may be collected by direct investigation (under section 6(a) of the Act), or by requiring the filing by corporations of "annual or special, or both annual and special, reports or answers in writing to specific questions" (under section 6(b) of the Act). Section 6(f) permits the FTC to publish any information so collected, "except trade secrets and names of customers, as it shall deem expedient in the public interest."

The Commission's exercise of these powers has provided the American public and small businessmen with some of the most significant information about the inner workings of giant corporations that has found its way into the public domain. However, the resistance by giant corporations and their skilled attorneys to the furnishing and publication of such information is very great, and is getting greater. To overcome that resistance, the Commission needs more encouragement and support from the public, and probably more funding from the Congress and the Administration, than it has received in recent years. The purpose of this question and its subparts is to elicit, for this record, some information about the types of corporate data-gathering that the Commission has done, as well as some that it has wished to do but has been frustrated from doing.

The Questions—In general, what types of giant corporation data has the Commission collected and published, what types has it collected and not published, what types has it wished to collect but been prevented from collecting, and what are the sources of resistance to the collection and publication of giant corporation data? Why does the public need more information about the inner workings of giant corporations than it is now getting?

In particular—

Question 4–1.—In the 1951 Corporate Pattern Survey, the FTC collected from the 1,000 largest manufacturing companies of 1950 information on their values of shipments of specific products from specific plants. A statistical report was published in 1957, giving results of the study by industries, but without any individual-company data. In September of 1972, when the information was 22 years old, the FTC published some of the individual-company data for some of the 1,000 companies. These questions arise:

(a) Why did the FTC wait 22 years to publish any of the individual-company data collected in the 1951 Corporate Pattern Survey?

(b) Why were the data published for only 979 of the 1,000 companies included in the 1951 survey?

(c) Why did the data that were published for the 979 companies include only company-total shipments values for each product line, with no plant or other geographical breakdowns?

(d) Why has the Corporate Pattern Survey, which collected value-of-shipments data by product line for the 1,000 largest manufacturing companies of 1950, never been repeated?

(e) In view of the economic and competitive importance of profit information by product line, why was not the 1951 Corporate Pattern Survey designed to elicit such information?

(f) And why is the new Corporate Pattern Survey, the FTC's proposed questionnaire for which is now pending at the Office of Management and Budget, designed to elicit only company-total shipments data, by product line, for the 1,000 largest manufacturers of 1967, and not designed to elicit either establishment data or profit data?

NOTE.—In question 4–1 and its subparts, we seek to elicit fullest available information on the reasons for and sources of *resistance* to publication of the 1950 data, to repetition of the survey for more recent years, and to expansion of the scope of the survey now contemplated for 1967.

Question 4–2. Would it not be beneficial and feasible for the FTC to conduct a Corporate Pattern Survey for every year in which the economic censuses are taken?

Question 4–3. Assuming that the FTC obtains approval of its proposed new Corporate Pattern Survey to collect data on product-line shipments for the year 1967, will it then make plans for and design a similar survey for the next economic censal year, 1972?

Question 4–4. Would it be feasible and desirable for a Corporate Pattern Survey collecting data for 1972 to be expanded in scope, to include profit information by product line as well as value-of-shipments information?

Question 4–5. What will be the FTC's policy on the publication of individual-company data collected in the new Corporate Pattern Survey covering the year 1967? For 1972 and future years?

NOTE.—It would seem to us to be desirable for the individual-company data to be published as soon as possible after they are collected even ahead of publication of any statistical summary and analysis of the data by the Commission. Whether that is or is not contemplated, an explanation of the policy would be appropriate in the answer to this question.

Question 4–6. On December 1, 1970, the FTC applied to the Office of Management and Budget (OMB) for clearance for a proposed survey report, to be required annually of all large manufacturing corporations. Called "FTC Form LB, Annual Receipts and Income, by Line of Business," its principal purpose was to remedy, at least once a year, the great and growing inaccuracies of industrial profit data in the *Quarterly Financial Report for Manufacturing Corporations,* (the *QFR*). In the *QFR,* a large corporation's *entire* sales and profit data are tabulated in only *one* industry, the company's most important single industry, even though that industry may account for well under a third of its total sales and total profits. As a result, with consolidated reports from so many conglomerate corporations included in the *QFR* data, the industrial information has become most unreliable. The proposed Form LB would have obtained an annual check on the extent of this unreliability, by gathering from the largest corporations sales and profit data by Standard Industrial Classification (SIC). However, following a meeting of a panel of the Business Advisory Council for Federal Reports with the OMB and FTC staff on January 21, 1971, in which predicted and predictable strenuous opposition from big business fully materialized, proposed Form LB was not approved. It is now being rumored that a revised version of the form may soon be approved, which leads to these questions:

(a) Can we have, for publication in this record, a copy of each proposed, revised Form LB that has been considered by the FTC and OMB subsequent to the original form, already published in this record, which was submitted for clearance in 1970?

* * * * *

(b) Is it contemplated that some version of Form LB will be cleared in time for collection this year of 1972 data? In time for collection next year of 1973 data?

(c) Could we have, for publication in this record, a list giving the dates and brief descriptions of principal meetings that have been held concerning proposed FTC Form LB, including interagency task force meetings, and especially including conferences between FTC personnel and industry representatives, and OMB personnel and industry representatives?

(d) Proposed Form LB, as originally submitted, contains an express promise to the corporations that would be required to complete and file the form: "It will not be made public." What are the Commission's reasons for giving a promise of secrecy for the individual-company data to be collected by this form?

(e) In brief summary form, what are the arguments advanced for and against the collection *and publication* annually of *individual-company* line-of-business sales and income data, by Standard Industrial Classification, from very large corporations, say those with annual sales of $200 million or more, or $100 million or more?

NOTE.—We should appreciate the courtesy of the Commission and any other witnesses providing answers to this question in naming the principal proponents of the pro and con arguments that are summarized.

Question 4–7. The Federal Trade Commission has proposed to expand the *QFR* to include data on mining and trade, as well as manufacturing, and to require corporations to exclude certain data from the consolidated quarterly reports they now file. Briefly, the data to be excluded would be the results of foreign operations and the results of certain regulated-industry operations, both of which are now more often than not included in the consolidated quarterly financial reports filed by corporations for tabulation in the *QFR.* At a meeting of a panel of the Business Advisory Council on Federal Reports (BACFR) with FTC and OMB staff personnel on October 5, 1972, industry spokesmen, predictably, expressed the usual adamant opposition to any meaningful breakdown of their financial data, even in the strictly confidential reports for the *QFR.* In brief summary, what are the arguments for and against the proposed new rules for consolidation of data in the *QFR* forms corporations file? And what is the current status of the FTC's proposed Forms MG and TR, the ones considered at the October 5, 1972, meeting?

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Question 4–8. At the meeting of a BACFR panel mentioned in question 4–7, there was considerable discussion of the possibility that the *QFR* program might be transferred from the FTC to the Bureau of the Census. Business representatives at the meeting favored such a transfer, principally because of their concern that individual-company *QFR* data might somehow stray from the Bureau of Economics and its Division of Financial Statistics, which currently keeps such data under lock and key, into the hands of the regulatory bureaus of the Commission, where it might be used against them in enforcement proceedings. In brief summary, what are the arguments for and against transferring the *QFR* program and the FTC to the Department of Commerce? And what is the current status of the proposal to make such a transfer?

EARTH MONTH IN BALTIMORE

Mr. MATHIAS. Mr. President, every week the calendar recalls ancient man's reverence for the Sun and the Moon as we follow the steady cycle of Mondays following Sundays. Now it is clearly time for modern man to dedicate a span of time to Earth. In Baltimore Mayor Donald Schaefer will fulfill this need by proclaiming the period from March 20 to April 24 as International Earth Month.

But Baltimore's Earth Month will not be a pagan festival, but rather a rational appeal for harmony between man and nature. It will call for rationality in an urban setting where the environment is seriously challenged.

As we renew our dedication to a task that is basic to life itself, that of preserving our environment yet creating and maintaining full and productive lives, I believe the words of the scientist-philosopher Rene DuBos are particularly appropriate:

To be compatible with the spirit of Western culture, conservation cannot be exclusively or even primarily concerned with saving man-made artifacts or parts of the natural world for the sake of preserving isolated specimens of beauty here and there. Its goal should be the maintenance of conditions under which man can develop his highest potentialities. . . . For animals as well as men, the kind of environment which is most satisfactory is one that they have shaped to fit their needs. . . . From man's point of view, civilized Nature should not be regarded as an object to be preserved unchanged, not as one to be dominated and exploited, but rather as a kind of garden in which human beings become what they want according to their own genius. Ideally, man and Nature should be joined in a nonrepressive and creative functioning order.

We must learn, as Dr. DuBos has so eloquently written, that the element of success in our struggle for survival lies in our ability to adapt ourselves to our environment without ignoring our needs. I applaud the enthusiasm of those who sponsor Earth Month because it is through their efforts that we will ultimately achieve a rational man-nature relationship.

I append here an announcement of principal Earth Month activities in Baltimore and ask unanimous consent that they be included in the RECORD.

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

EARTH MONTH, MARCH 20 TO APRIL 24, 1973

A national first for the city of Baltimore and the State of Maryland—will be observed again this year from March 20th, 1:13 p.m. (the time of the Vernal Equinox), to April 24th.

International Earth Day—March 20, 1:13 P.M.—March 21, 1:13 p.m. with opening ceremony at Pier 1 aboard the U.S.S. Constellation, with the Major Theme: "Save Our Seas" at 1:13 p.m. March 20th.

Earth Hour—March 20th, 1:13 p.m.–2:13 p.m. Agenda as follows: Reading of the Earth Month Proclamation by Mayor Schaefer and short addresses by: John Ramsey (Director of Baltimore's Environmental Center), Bob Hieronimus (Coordinator of Earth Month and International Earth Day), the United Nations Association of Maryland (Youth & Senior Div.) and World Federalists (Youth & Senior Div.).

"Minute for Peace"—March 20th, 2:12–2:13 p.m., a minute of silent prayer and meditation, after which Church Bells will ring 2:13–2:18 p.m.

Earth Month—March 20th–April 24th.

International Earth Day will commence 1 month of activity during which schools, communities and churches will begin working on short and long-range projects improving our environment throughout the City and State.

Earth Week—April 18th–24th.

The final week of Earth Month will place the greatest emphasis upon closer coordinated projects with the Baltimore Environmental Center, located at 112 East 25th Street.

For further information, contact:

John Ramsey (366–2070), 112 E. 25th St., Baltimore, Md., 21218; or Bob Hieronimus (664–6959), 2405 Ruscombe La., Baltimore, Md., 21209.

"Most astronauts agree that there is an inevitable universal consequence of space flight perhaps best expressed by Ed Mitchell . . . 'You develop an instant global consciousness, a people orientation, an intense dissatisfaction with the state of the world and a compulsion to do something about it.'"

CANCER-CAUSING DRUGS IN OUR FOOD

Mr. RIBICOFF. Mr. President, through the creation of a National Cancer Institute and the appropriation of nearly $500 million in fiscal year 1973 the Congress has given the highest priority to the development of a cancer cure.

At the same time that the Government has been searching for a cure for cancer, however, government agencies have permitted the introduction into the food supply of substances which may themselves cause cancer.

There has been widespread controversy over the use of one particular cancer-causing drug, diethylstilbestrol—DES—but this controversy has obscured the fact that scores of other drugs suspected of causing cancer remain in the food supply.

To date, few drugs administered to food animals have been shown definitely to be carcinogenic—cancer-causing. Many more, however, are suspect carcinogens, and inadequate measures have been taken to explore the dangers these drugs may present. Meanwhile, these drugs have been used widely and consumers have borne the risk that the food they eat is unsafe.

I am releasing today an extensive examination of this subject, prepared by the FDA's own Director of Veterinary Medicine Research, which reveals that many suspected carcinogens are present in the food supply and illustrates the alarming dimensions of the problem. According to the FDA memorandum prepared September 27, 1972, and heretofore not made public, there are nine approved animal drugs for cattle classified by the FDA as possible carcinogens. For poultry, there are seven approved animal drugs classified by the FDA as possible carcinogens. For pork, three. For sheep, five. For milk, two, and for hens, four.

According to the summary, there are a total of 19 separate approved animal drugs that are suspected carcinogens; 23 separate animal drugs the residues of which could be a human hazard because of possible sypersensitivity, acute toxicity, and the development of resistant strains of bacteria. Seventeen animal drugs that leave toxic residues if abused or not withdrawn properly; five pesticides which if abused could lead to toxic residues in food producing animals; three pesticides that could lead to toxic residues in tissues as a result of contamination in the environment; and five specialized drugs that if abused would lead to potent residues having a possible physiological effect on human beings.

With respect to several of these suspected, cancer-causing drugs, the FDA admits that its current testing methods are inadequate. Yet, all these drugs remain on the market, subject to misuse, while consumers are exposed to serious risk. Until adequate testing methods are developed, there is no excuse for allowing these drugs to be used in animals produced for food.

Even when the FDA decides not to allow any residue of a drug to appear in food, the consumer has no guarantee of protection. For example, the hormone, melengestrol acetate—MGA—is licensed for use in heifers intended for human consumption. This hormone has been shown to cause tumors in test animals. The FDA has imposed a zero tolerance for MGA, permitting no residues in slaughtered carcasses.

The Department of Agriculture is responsible for testing meat to assure that no residues of MGA remain. Yet for more than 2 years there has been no monitoring program at all to detect MGA residues. During that time, MGA has continued to be licensed and used, while consumers have borne the risk that there are residues of MGA in their meat and that these residues may cause cancer.

On May 18, 1971, in response to a letter from me, the Secretary of Agriculture stated that "the validation of the MGA—testing—procedure has been given a high priority so that the Department may initiate a monitoring program at an early date." Now, almost 2 years later, there is still no monitoring program. One wonders what meaning the Agriculture Department attaches to the term "high priority."

This situation is especially disturbing now that DES has been banned from animal feeds, for it is possible that MGA will become more widely used as a substitute. As long as there is a strong possibility that MGA is a carcinogen, the FDA should not allow this to happen.

It is clear that Government regulation of animal drugs is not protecting American consumers. Substances classified as "suspect carcinogens" are allowed to remain in the food supply until there is absolute proof that they do cause cancer. Even then, the Government moves slowly to remove them. Animal drugs, the safety of which are in serious doubt, are given the benefit of every doubt, and little is done to investigate the risk they present to consumers. By the time corrective action is taken, it may be too late for millions of Americans. In the past several decades, the incidence of cancer has grown alarmingly at the same time that the use of animal drugs which are "suspect carcinogens" has proliferated. It is quite possible that there is a relation between these two developments.

Government regulation of animal drugs which pose a potential danger to human health must be dramatically improved. Several things must be done to make this improvement possible.

First, the responsibility for protecting consumers from potentially dangerous substances in food must be centralized in one Federal agency. In the past, fragmented regulatory authority has resulted in ineffective regulation.

FDA has responsibility to license animal drugs, establish regulations governing their use, and prescribe the level of sensitivity for tests to determine the presence of residues. The Department of Agriculture, however, has responsibility for conducting the tests and enforcing the regulations. In the case of MGA, regulations governing use and standards for testing have been established by the FDA, but the total failure by the Department of Agriculture to monitor animals for compliance has resulted in a failure to enforce any standard at all. With respect

to DES, the divided authority has resulted in tardy attention to testing for DES residues resulting from implants. I shall be introducing legislation in the next several weeks to bring these functions together under a single authority with full responsibility for licensing, standard setting, testing, and enforcement.

Second, consumer representation must be strengthened. As long as consumers have no voice in regulatory decisions, their interests will continue to be ignored. S. 707, which I have introduced and which is cosponsored by 29 other Senators, would provide an effective consumer advocate for the first time. Hearings on this legislation will begin tomorrow.

Third, whatever Federal agency has regulatory responsibility must begin to enforce the law with the interests of consumers in mind. It is intolerable that "suspect carcinogens" remain in the food supply with no monitoring system to detect their presence. Consumers should not bear the risk of exposure to cancer while the Federal Government moves lethargically, if at all, toward the development of detection systems. Nor should they bear the risk when the standards that are eventually set are unenforceable. The Government must assure that any substance which may be present in food is harmless. There is no excuse for the presence of a "suspect carcinogen" in the food we eat.

No legislation that we pass can solve this problem unless that legislation is enforced vigorously. Consolidation of responsibility and creation of a consumer advocate may contribute to a solution, but in the final analysis, it will be up to the regulatory agency itself to decide, at last, that its primary job is consumer protection.

The FDA memorandum I am releasing today recognizes the failure of governmental regulation to protect consumers. It concludes with these words:

Unless FDA resolves this drug residue problem, we will soon be in direct confrontation with Congress defending an untenable position. For FDA to ignore this problem would be disastrous.

I am writing tc the Secretary of Health, Education, and Welfare and the Secretary of Agriculture, calling upon them to withdraw approval for use in food animals of all suspect carcinogens and other potentially dangerous toxic drugs, until it is shown by convincing evidence that such drugs are not hazardous to human health.

I ask unanimous consent to have my letter to Secretaries Wendeeyer and Butz and the FDA memorandum inserted at this point in the RECORD.

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

LETTERS TO SECRETARIES WEINBERGER AND BUTZ

MARCH 20, 1973.

DEAR MR. SECRETARY: I have received a copy of a memorandum prepared on September 27, 1972 by the Director of the Food and Drug Administration's Bureau of Veterinary Medicine Research that illustrates the extent to which American consumers are being exposed to carcinogenic and toxic substances administered as drugs to food animals.

The situation that has been allowed to develop presents an intolerable risk to the American public, especially when no adequate monitoring system exists to detect the presence of many of these substances in human food. To protect the American consumer, approval should be withdrawn immediately for the use in food animals of all suspect carcinogens and other animal drugs which may be hazardous to human health until such substances are shown by convincing scientific evidence to be harmless to human health.

I would appreciate your prompt attention to this matter.

Sincerely,

ABE RIBICOFF.

DEPARTMENT OF HEALTH, EDUCATION, AND WELFARE,
September 27, 1972.

To: C. D. Van Houweling, Director, Bureau of Veterinary Medicine, VM–1.

From: Director, DVMR VM–400.

Subject: Review of veterinary drug residues and drug residue monitoring programs for food producing animals.

In light of recent developments in analytical techniques for recovering minute amounts of drug residue from tissues of treated food producing animals and birds, it becomes evident that a review of the entire problem of drug residues and monitoring programs by both FDA and USDA be undertaken at the earliest possible date. FDA has a continuing responsibility to assure the consumer that when properly used, approved veterinary drugs will not result in the presence of illegal residues in the tissues or products of food producing animals or birds. Existence of excessive or prohibited residues may constitute a public health hazard.

The current public interest aroused by the DES controversy dictates that FDA and USDA review the residue problem as a total concept so that screening methods, monitoring programs and necessary regulatory methods can be updated and made consistent with current scientific knowledge.

Monitoring the tissues of food producing animals and birds for drug residues must logically be done at the time of slaughter by USDA. However, in order for USDA to sample for tissue residues with confidence and with the greatest utilization of manpower, facilities, and funds, they must establish new sampling priorities and statistically valid sampling procedures for individual drugs. Examples of the types of information needed by USDA are: Public health significance of the drug, volume sold, geographical distribution, method of administration and drug characteristics. These types of information are generally available from FDA, and appropriate means for developing and conveying them to USDA should be developed.

In this context it is possible to address ourselves to several of the factors that will serve both USDA and FDA in carrying out a meaningful drug surveillance program. The following aspects will be considered in this memorandum.

I. An identification of those veterinary drugs that are presently being used in food producing animals (including fish).

II. Veterinary drugs that can produce tissue residues with possible public health significance.

III. A consideration of the adequacy of available tissue residue methodology for the various veterinary drugs.

IV. Summary of regulatory tissue methods *presently* available for inclusion into the APHIS/USDA tissue monitoring program.

V. Recommendations for action by FDA.

I. LIST OF DRUGS USED IN FOOD PRODUCING ANIMALS

If these drugs are misused, they may leave illegal residues in foods of animal origin.

A. Drug residues possible in *cattle tissue* where a tolerance (or Zero tolerance) is listed in 21 CFR 135g.

1. Bacitracin
2. Chlorhexidine (2)
3. Chlormadinone acetate (being banned) (5)
4. Chlortetracycline (1)
5. Clopidol
6. Coumaphos (3)
7. Diethylstilbestrol (now banned except in implants) (5)
8. Dihydrostreptomycin (2)
9. Erythromycin
10. Estradiol benzoate (1), (5)
11. Ethoxyquin
12. Famphur (3)
13. Haloxon
14. Levamisole hydrochloride
15. Melengestrol acetate (5)
16. Medroxyprogesterone acetate (heifers and ewes only) (5)
17. Neomycin (2)
18. Oxytetracycline
19. Penicillin
20. Phenothiazine
21. Progesterone (heifers only) (5)
22. Promazine hydrochloride (drug withdrawn from use in food producing animals)
23. Ronnel (3)
24. Sulfachlorpyridazine (2)
25. Sulfadimethoxine
26. Sulfaethoxypridazine (1)
27. Sulfamethazine (3)
28. Testosterone (5)
29. Testosterone propionate (1), (5)
30. Tetracylcine
31. Thibendazole
32. Tylosin

Note (1), Residues also possible in calves
Note (2), Residues expected only in calves
Note (3), Residues not listed in 21 CFR 135g, but could give a residue if abused
Note (4), Drugs classified as not new animal drug
Note (5), Possible carcinogen

B. Drug Residues possible in *poultry tissue* where a tolerance (or Zero tolerance) is listed in 21 CFR 135g.

1. 2-Acetylamino-5-nitrothiazole (2).
2. Aklomide (1).
3. Amprolium (1).
4. Bacitracin.
5. Buquinolate (1).
6. Carbomycin (1).
7. Chlortetracycline.
8. Clopidol (1).
9. Coumaphos (3).
10. Decoquinate (1).
11. Dinestrol diacetate (5).
12. Dimetridazole (2), (5).
13. 3,5-Dinitrobenzamide (1).
14. Erythromycin.
15. Estradiol monopalmitate (1) (5).
16. Ethopabate (1).
17. Ethoxyquin.
18. Furazolidone (5).
19. Hygromycin B.
20. Ipronidazole (2) (5).
21. Lincomycin (1).
22. Metoserpate hydrochloride (1) (3).
23. Monensin (1).
24. Nequinate (1).
25. Nicarbazine (1) (3).
26. Nihydrazone (1) (5).
27. Nithiazide (3).
28. Nitrofurazone (3) (5).
29. Novobiocin.
30. Nystatin (1).
31. Oleandomycin.
32. Ormetoprim (1).
33. Oxytetracycline.
34. Penicillin.
35. Racephinicol (1).
36. Reserpine (3).

37. Sodium sulfachloropyrazine (1).
38. Spectinomycin (1).
39. Streptomycin.
40. Sulfadimethoxine (1).
41. Sulfanitran (1).
42. Sulfaquinoxaline (3) (4).
43. Sulfomyxin
44. Tetracycline
45. Total arsenic
46. Tylosin
47. Zoalene

Note (1), Residues expected only in chicken tissue

Note (2), Residues expected only in turkey tissue or turkey eggs

Note (3), Residues not listed in 21 CFR 135g, but could give a residue if abused

Note (4), Drugs classified as not new animal drug

Note (5), Possible carcinogen

C. Drug Residues possible in *swine tissue* where a tolerance (or Zero tolerance) is listed in 21 CFR 135g.

1. Bacitracin
2. Carbadox (FR approval notice in General Council's office now) (3)
3. Chlortetracycline
4. Clopidol
5. Dichlorvos
6. Erythromycin thiocyanate
7. Ethoxyquin
8. Furazolidone (3)
9. Hygromycin B
10. Levamisole hydrochloride
11. Lincomycin
12. Neomycin (1)
13. Nitrofurazone (1) (3)
14. Novobiocin (1)
15. Nystatin
16. Oleandomycin
17. Oxytetracycline (2)
18. Penicillin
19. Streptomycin
20. Sulfachorpyridazine
21. Sulfethoxypridazine
22. Sulfamethazine (1)
23. Sulfathiazole (2)
24. Tetracycline
25. Thiabendazole
26. Total arsenic
27. Tylosin

Note (1), Residues not listed in 21 CFR 135g, but could give a residue if abused

Note (2), Drug classified as not new animal drug

Note (3), Possible carcinogen

D. Drug Residues possible in *sheep tissue* where a tolerance (or Zero tolerance) is listed in 21 CFR 135g.

1. Clopidol
2. Diethylstilbestrol (now banned except in implants) (3)
3. Estradiol benzoate (3)
4. Ethoxyquin
5. Haloxon
6. Levamisole hydrochloride
7. Medroxyprogesterone acetate (will be banned) (3)
8. Neomycin (1)
9. Oxytetracycline (1) (2)
10. Phenothiazine (1) (2)
11. Progesterone (3)
12. Tetracycline
13. Thibendazole
14 Zeranol (3)

Note (1), Residue not listed in 21 CFR 135g, but could give a residue if abused

Note (2), Drugs classified as not new animal drug

Note (3), Possible carcinogen

E. Drug Residues possible in *farmed fish tissue* where a tolerance (or Zero tolerance) is listed in 21 CFR 135g.

1. Oxytetracycline
2. Sulfamerazine

F. Drug Residues possible in *milk* where a tolerance (or Zero tolerance) is listed in 21 CFR 135g.

1. Bacitracin
2. Chlortetracycline
3. Clopidol
4. DDT, DDD, & DDE
5. Dihydrostreptomycin
6. Erythromycin
7. Ethoxyquin
8. Famphur (1)
9. Furaltadone (3)
10. Hydrocortisone
11. Lincomycin (1)
12. Medroxyprogesterone (3)
13. Methylprednisolone
14. Neomycin
15. Novobiocin
16. Penicillin
17. Phenothiazine
18. Polymyxin B (1)
19. Prednisolone
20. Prednisone
21. Ronnel (1)
22. Sulfadimethoxine
23. Sulfaethoxypridazine
24. Tetracycline (1)
25. Thiabendazole
26. Tylosin

Note (1). Residue not listed in 21 CFR 135g, but could give a residue if abused

Note (2). Drugs classified as not new animal drug

Note (3). Possible carcinogen

G. Drug Residues possible in *eggs* where a tolerance (or Zero tolerance) is listed in 21 CFR 135g.

1. Amprolium
2. Bacitracin
3. Buquinolate
4. Chlortetracycline
5. Dimetridazole (1) (3)
6. Erythromycin
7. Furazolidone (1) (3)
8. Hygromycin B
9. Nihydrazone (3)
10. Nitrofurazone (1) (3)
11. Novobiocin
12. Nystatin (1)
13. Penicillin
14. Reserpine
15. Streptomycin
16. Tetracycline (1)
17. Total arsenic
18. Tylosin

Note (1). Residue not listed in 21 CFR 135g, but could give a residue if abused

Note (2). Drugs classified as not new animal drug but where the residue pattern is not completely known

Note (3). Possible carcinogen

II. VETERINARY DRUGS THAT CAN PRODUCE TISSUE RESIDUES WITH POSSIBLE PUBLIC HEALTH SIGNIFICANCE

We believe BVM has a vital role to play in FDA as regards to the public health impact of veterinary drugs and their potential for leaving residues in food producing animals. We have specialized knowledge in the area of animal husbandry practices, and in the systems used in livestock marketing and processing. We also have a well established communication system established with the Meat & Poultry Inspection Services of USDA. It seems appropriate then that BVM should receive, evaluate and initiate field investigation of reports of violative drug residues received from USDA. We also believe that having this information in hand, BVM should continue its practice of developing the necessary regulatory programs incident to the misuse of veterinary drugs. With these conclusions in mind, as we addressed the total residue subject we attempted to go one step further, that is, we tried to rank veterinary drugs in order of decreasing public health significance. Had we concluded that this was properly within our total purview, and that we were qualified to do so, we would have prepared a priority list for USDA's monitoring program. This approach was abandoned when we recognized that the Bureau of Food is responsible for determining the toxicity of veterinary drug residues for man, and that they establish the period of time that drugs must be withdrawn from the diet or therapeusis of animals and birds. We note further, that if BVM is solely responsible for advising USDA on drug surveillance priorities we could conceivably issue recommendations that would fail to meet the mission of the agency. This would leave us in an untenable position. An example of our delimma surfaced when we tried to decide if the sampling of tissues for antibiotic residues should have a higher priority than certain Sulfa drugs. Recent considerations in the Bureau of Foods hold that the Sulfas are potential carcinogens. Another example would be in determining priorities for residues of antibiotics versus steroids or for substances that are both drugs and pesticides. Thus, we conclude that the Bureau of Foods must be consulted by BVM and they must ultimately be involved in establishing the priorities for any future drug surveillance program to be conducted by USDA and FDA.

Therefore, we are presenting seven categories of drugs that should be considered for inclusion in a surveillance program. With the exception of the first grouping we have not attempted to assign rankings to the categories. Quite obviously, category A is a critical class of drugs which we believe by anybody's evaluation must receive priority attention. Here again, we may have erred in our judgment by not placing the sulfonamides in this category. We believe B/F holds part of the answer to this question for this widely used class of veterinary drugs.

On the assumption that B/F will be consulted and that we will jointly develop a priority grouping of drugs for USDA's surveillance program, BVM should seriously consider the workup of related information that will make USDA's efforts meaningful. This would include information such as volume of drug sold each year, geographical distribution, species use, method of administration, etc.

Please note that we have included those drugs which could be expected as residues in milk and/or in eggs. These would be eliminated in our advice to USDA. We think it is useful however to have them included for possible attention in FDA regulatory programs.

A. *Those drugs having a zero residue tolerance because they are suspect carcinogens.*

1. Carbadox—in swine tissue (not yet marketed)
2. Chlormadinone acetate—in beef tissue (approval being withdrawn)
3. Dinestrol diacetate—in poultry tissue
4. Diethylstilbestrol—in beef and sheep tissue (implants only)
5. Dimetridazole—in turkey tissue
6. Estradiol benzoate—in beef and sheep tissue
7. Estradiol monopalmitate—in chicken tissue
8. Furaltadone—in milk
9. Furazolidone—in poultry and swine tissue
10. Iponidazole—in turkey tissue
11. Melengestrol acetate—in beef tissue (approved for use in heifers only, but must screen steers also because of reported abuse)
12. Medroxyprogesterone acetate—in beef and sheep tissue (approved for breeding cattle and ewes only)
13. Nihydrazone—in chicken tissue and eggs
14. Nitrofurazone—in poultry and swine tissue
15. Progesterone—in beef and sheep tissue (approved for heifers and ewes only)
16. Testosterone—in beef tissue
17. Testosterone propionate—in beef tissue
18. Zeranol—in beef and sheep tissue
19. Selenium, injectable

B. *Antibiotic residues that could be a human health hazard because of possible hypersensitivity, frank toxicity and development of resistant strains of organisms in the human bacteria florae.*

1. Bacitracin—in all animal tissues, milk and eggs (widely used)
2. Carbomycin—in chicken tissue
3. Chloramphenicol—in milk and animal tissue (not approved for use in food producing animals)
4. Chlortectracycline—in all animal tissue, milk, and eggs (widely used)
5. Dihydrostreptomycin—in calf tissue, milk and dairy products
6. Erythromycin—in all animal tissue except swine
7. Hygromycin B—in all chicken and swine tissue and eggs (widely used)
8. Lincomycin—in chicken and swine tissue
9. Monesin—in chicken tissue (70% of market)
10. Neomycin—in calf tissue and milk
11. Novobiocin—in all animal tissues, milk, and eggs
12. Nystatin—in chicken and swine tissues and eggs
13. Oleandomycin—in poultry tissue
14. Oxytetracycline—in all animal tissues (widely used)
15. Penicillin—in all animal tissues, and eggs (widely used)
16. Penicillin—in milk (knowledge of this residue is of high priority because of the known anaphylactic reaction of penicillin in some people)
17. Polymyxin B—in milk
18. Racephenicol—in chicken tissue
19. Spectinomycin—in chicken tissue
20. Streptomycin—in poultry and swine tissue and eggs
21. Sulfonmyxin—in beef tissue
22. Tetracycline—in all animal tissues, milk and eggs (widely used)
23. Tylosin—in all animal tissue, milk and eggs

C. *Toxic drugs that if abused and/or not withdrawn properly, could leave residues that are toxic but are not known to be carcinogenic.*

1. 2-Acetylamine-5-nitrothiazine—in turkey tissue
2. Arsenicals—in poultry and swine tissue (tolerance is on total arsenic). They are the most widely used.
3. 3,5-Dinitrobenzamide in chicken tissue
4. Levamisole hydrochloride—in beef, sheep, and swine tissue
5. Mithiazide—in chicken tissue
6. Ormetoprin—in poultry tissue
7. Phenothiazine—in beef tissue and milk
8. Sodium sulfachloropyrazine—in chicken tissue
9. Sulfachlorpyridazine—in beef and swine and milk
10. Sulfadimethoxine—in beef and poultry tissue and milk
11. Sulfaethoxpyridazine—in beef and swine and milk
12. Sulfamerazine—in trout
13. Sulfamethazine—in beef and swine tissue (widely used)
14. Sulfanitran—in chicken tissue
15. Sulfaquinoxaline—in poultry tissue
16. Sulfathiazole—in swine tissue (widely used)
17. Thiabendazole—in beef, sheep, and swine tissue and milk (widely used)

D. *Compounds that are pesticides as well as drugs which if abused could lead to toxic residues in food producing animals.*

1. Coumaphos—in beef and poultry tissue
2. Dichlorvos—in swine tissue
3. Famphur—in beef tissue and milk
4. Haloxon—in beef tissue
5. Ronnel—in beef tissue and milk

E. *Pesticides that are not approved animal drugs, but could lead to toxic residue in tissue from contamination in the environment.* Tolerances yet to be determined.

1. All carbamate pesticides
2. All chlorinated pesticides (DDT, DDD & DDE)
3. All organophosphate pesticides

F. *Specialized drugs, that if abused would lead to potent residues having a possible physiological effect.*

1. Hydrocortisone—in milk
2. Methylprednisolone—in milk
3. Prednisolone—in milk
4. Prednisone—in milk
5. Reserpine—in poultry tissue

G. *Less toxic drugs, that if use is abused could lead to over tolerance residues.*

1. Aklomide—in chicken tissue
2. Amprolium—in chicken tissue and eggs
3. Buquinolate—in chicken tissue and eggs
4. Clopidol—in chicken tissue and contamination in all other animal tissues
5. Chlorhexidine—in calves tissue
6. Decoquinate—in chicken tissue
7. Ethopabate—in chicken tissue
8. Ethoxyquin—in all animal tissue and milk
9. Nequinate—in chicken tissue
10. Zoalene—in poultry tissue

III. Adequacy of Regulatory Tissue Methodology for Drugs BVM Has Approved

A. Suspect Carcinogens

1. Chlormadinone Acetate—BVM is in the process of withdrawing this drug from the market.

2. Dinestrol Diacetate, Estradiol Benzoate, and Estradiol Monopalmitate—The *tissue method* in the CFR for all these drugs is the Umberger mouse uterine weight test. See comments below.

3. Progesterone—The *tissue method* in the CFR is the Hooker Forbes bioassay. See comments below.

4. Testosterone and Testosterone Propionate—The *tissue method* in the CFR for these two drugs is the chick comb bioassay. See comments below.

COMMENTS

The bioassay tissue methods listed above are all *inadequate* as regulatory methods because of:

(a) their non-specificity.
(b) the long assay time involved.
(c) the high cost per assay (when dealing with large number of samples).

RECOMMENDATION

(a) All of the NADA holders should be asked to develop a tissue method sensitive to ppb and specific for the parent molecule as well as the major metabolites (for example: estradiol is rapidly converted in the animal to estrone). The developed method should be able to be used in a monitoring program and legal action taken if a residue is found.

(b) The NADA holders should also be asked to furnish tissue residue data on the expected metabolites as well as furnish data on the normal background levels of these chemicals when the drug is not given.

(c) Confirmatory methods should also be developed now.

REMARKS

APHIS/USDA has Dinestrol and Estradiol coded as a residue on their coding sheet for their monitoring program, but this should be ignored.

They have not yet developed a tissue method for these two drugs and therefore are not actively screening for these drugs. They plan to modify the DES-CLC tissue method (USDA) for this purpose. They should be asked *to include estrone* and other metabolites as part of their developed method.

DNS has recently sent a letter to Schering Corporation asking them to develop a regulatory ppb sensitive tissue method (other than a bioassay) for Lipamone (Dinestrol Diacetate) that could be incorporated in a tissue monitoring program.

DNS has asked Syntex Laboratory to submit a progress report on the tissue method they are developing for Synovex S and H (Estradiol Benzoate, progesterone and testosterone). They are presently developing protein binding radioimmuno assays for tissues sensitive to 1 ppb residue of the drugs mentioned above. Also see DES for our comments on implants. The same conclusions would apply here.

5. Diethylstilbestrol—The present *tissue method* in the CFR is the Umberger mouse uterine weight test. This assay is inadequate as a regulatory method. Elanco has submitted an ec-GLC tissue method using an enzyme to free the bound DES and derivative formation of the cis and trans isomers. APHIS/USDA has modified Elanco's derivative formation step and is using their method in their monitoring program. Both methods are sensitive to 2 ppb. USDA's method is presently being rewritten for re-validation by USDA, BF and DEN-DO. Once USDA's method passes the validation study, an *adequate* regulatory tissue method for DES will be available.

RECOMMENDATIONS

From FDA's legal standpoint, a TLC or mass spec tissue confirmatory method needs to be developed. The GLC retention times alone do not identify the peak as DES. To fill this need, a modification of the following existing methods might suffice:

(a) DEN-DO's two dimensional TLC method for DES in feed
(b) BF mass spec method for DES in feed.

APHIS/USDA should be asked to use these confirmatory methods when they become available or ship FDA the sample reserve of samples found positive by GLC, so that we can confirm the findings.

REMARKS

DNS has evidence that some DES implants are palpable 120 days after implantation. This could be due to tissue encapsulation of the implant. We do not know if this means that the implant has quit releasing the drug to the blood stream or if the implant is still releasing the drug 120 days after implantation. More data is needed from the NADA holders of implant drugs to determine when the implant is totally disintegrated and at what time there is zero residue in the tissue. This information should be a factor in determining and publishing withdrawal periods for each implant where none exists now. If the implant is in fact encapsulated with tissue, the drug release rate must be known and a standard implant palpatation test must be agreed upon for use in the slaughter house.

6. Dimetridazole—On November 24, 1970, Salsbury Laboratories submitted a study that indicated that this compound produced tumors.

There is no available tissue regulatory method in the CFR. The firm has submitted a Ni^{63}-ec GLC tissue method sensitive to 2 ppb, but it failed FDA validation. There is a problem with the sample clean-up step which the firm is presently working on.

7. Iponidazole—The *tissue method* in the CFR for Iponidazole and its metabolite is an *adequate* regulatory method. This method would define zero tolerance at 4 ppb as determined from the available recovery data. APHIS/USDA has tried the method at Hofmann-LaRoche and found it satisfactory as a regulatory method.

RECOMMENDATION

APHIS/USDA should be asked to include this assay in their tissue monitoring program for turkeys. We need to develop now a confirmatory method for FDA legal action.

8. Furazolidone, Furaltadone, Nihydrazone and Nitrofurazone—There are *no available* regulatory tissue methods in the CFR for these drugs as of yet. Norwich has submitted a TLC method (using a Farrand Scanner to quantitate the TLC spots) for Furazolidone in poultry and swine tissue that is sensitive to 2 ppb, and a similar TLC method for Furaltadone in milk that is sensitive to 0.2 ppb.

Both methods are presently being validated by FDA and USDA. When these two methods are approved by FDA, the firm has indicated that they will incorporate nihydrazone and nitrofurazone analysis into these methods.

9. Melengestrol Acetate—The *tissue method* in the CFR is *inadequate* as a regulatory method because:

(a) it is only sensitive to 25 ppb

(b) the method is very time consuming and difficult to run.

(The DET–DO chemist who was part of the validation study took six months to get the method to work).

The method uses a TLC clean-up and FID–GLC determinative step.

REMARKS

Upjohn has submitted data showing that MGA induces tumors in female mice, but not at a dose below the 25 ppb level. Upjohn has submitted a shortened Ni^{63}-ec GLC tissue method sensitive to 25 ppb but BVM has not validated it yet. BVM has recently submitted the toxicity data to the National Cancer Institute and asked them to answer the following questions:

(a) Is MGA a carcinogenic substance?

(b) Is a 25 ppb sensitive tissue method adequate?

We have not received an answer yet.

In the meantime APHIS/USDA, with the highest priority, intends to use the Upjohn's shortened method (25 ppb sensitivity) in their monitoring program in about one month. They intend to monitor steer as well as heifers tissue for MGA. They suspect MGA is being used illegally as a substitute for DES in steers.

DNS has concluded that the withdrawal period should be extended to 13 days to prevent the occurrence of a residue in the tissue under present approved use. They base this on extrapolation of the available tissue residue data and half life of the drug, plus adding a margin of safety. Two to three days after MGA is withdrawn, all the heifers will come in heat. Presently, MGA has a 48 hour withdrawal period.

RECOMMENDATIONS

(a) We should ask Upjohn to submit a regulatory tissue method, sensitive to at least 5 ppb and after validation, have it published in the FR.

(b) Upjohn should be asked to submit tissue residue data that will more accurately determine the zero residue time.

(c) A more safe withdrawal period should be determined for this product to be used in the interim period until the NCI report is received.

(d) If MGA is not withdrawn from the market, a tissue confirmatory method should be developed.

10. Medroxyrpogesterone—The *tissue method* in the CFR is *inadequate* as a regulatory method because the described paper chromatography separation and U.V. determinative step is at best sensitive to 70 ppb.

REMARKS

The only approved use for this drug is on *breeding cattle and ewes* for the purpose of synchronization of estrus and ovulation. There are no withdrawal periods for milk or for slaughter on the label. The term, *"breeding cattle,"* could be interpreted as meaning milking cows as well as beef heifers.

RECOMMENDATIONS

(a) We should review the available tissue and milk residue data and clarify the label accordingly.

(b) We should re-consider the need for a proper withdrawal period in light of present husbandry practices.

(c) A more sensitive regulatory tissue method should be developed.

(d) A confirmatory method should be developed.

11. Zeranol—The *tissue method* in the CFR (a TMS derivative formation and FID-GLC method) is *inadequate* as a regulatory method because:

(a) it is sensitive only to 20 ppb

(b) the sample clean-up is poor which causes a poor baseline in the GLC chromatogram. *This could lead to false positives.*

REMARKS

DNS has found that a 20 ppb residue generated by the CFR method is really 1 ppb as determined by the radioactive tracer study. At the present time APHIS/USDA is not developing a more sensitive regulatory tissue method for Zeranol. Our comments on DES implants also apply to this product.

RECOMMENDATIONS

(a) A more sensitive tissue method with a better sample clean-up step should be developed.

(b) A confirmatory method should be developed now.

12. Carbadox (has not been approved as yet)—The *tissue method* submitted in the NADA uses three columns and two TLC steps for clean-up and Ni^{63}–ec GLC determinative step after Methylation. This method is sensitive to 30 ppb. APHIS/USDA was part of the validation study and should be capable of running the method. However, in view of the recent DES policy decision that any residues of a carcinogen is prohibited, the *30 ppb sensitivity* level for carbadox appears grossly inconsistent

13. Selenium—*For those NADA's approved, regulatory tissue residue methods are not presently available.* Such methods would have to differentiate between the actual selenium background present in the tissue and the selenium level due to the approved dose form.

B. Antibiotic Residues

1. For twenty of the antibiotic drugs, the NADA tissue (also milk and eggs) methods use the microbiological inhibition assay for quantitation. Even though these methods use a variety of different test organisms, the individual methods are not each specific for one antibiotic residue. Even if one ran all twenty methods on an unknown tissue sample, you could not say what antibiotic was present if you found some positive responses.

APHIS/USDA in their antibiotic tissue monitoring program make use of resistant test organisms and penicillinase to help identify by deductive reasoning, any of five antibiotic residues (penicillin, streptomycin, erythromycin, tetracyclines, and neomycin). To identify a specific tetracycline presumptive, they use a TLC-bioautograph. To expand APHIS/USDA's screening procedure to other antibiotic residues would require new resistant test organisms not yet available and expomential expansion of the number of tests to be run for each sample. FDA has no active program for antibiotics in milk or eggs.

COMMENTS

What is needed is the development of a multiresidue screening procedure that includes all of the antibiotics used today in food producing animals. It must be able to measure the bound as well as the free antibiotic present in the tissue.

DVR is currently trying Lightbrown's (analyst *90*, 89 (1965)) Agar gel electrophoresis bioautograph procedure on total diet composit I and II samples. It is too early in the research to predict success or failure.

The TLC—bioautograph procedures listed in E. Stahl's book, "Thin Layer Chromatography—a Laboratory Handbook," 2nd Ed. 1969 pages 566–78, might be applicable as a screening method for antibiotic residues. If you can obtain separation, the TLC procedure may have some merits over electrophoresis.

Another problem that must be solved is the use of the proper sample handling technique that will assure that antibiotic activity in the tissue sample is not partially lost. The results of Dr. Huber's collaborative study (FDA contract #70–204) indicates that APHIS/USDA's sample handling technique results in significant loss of antibiotic activity.

RECOMMENDATIONS

(a) Development of multi residue screening procedures.

(b) Development of specific confirmatory tests.

(c) Develop sample handling techniques that will assure meaningful results.

(d) When adequate methodology is available, initiate FDA monitoring programs for antibiotic residue in milk and eggs.

C. Non-Carcinogen toxic drugs.

1. Arsenicals—The APHIS/USDA and Salsbury *tissue methods* are presently under AOAC collaborative study. APHIS/USDA is presently monitoring for arsenic by their method.

2. Aklomide and its metabolite, Sosium Sulfachloropyrazine, Sulfachlorpyridazine, Sulfadimethoxine, Sulfaethoxypridazine, Sulfamerazine, Sulfamethazine, Sulfanitran, Sulfathiazole and metabolites of 3,5-dinitrobenzamide.

The NADA tissue methods for all of the above drugs use the non-specific Bratton-Marshall colorimetric method. This method is *inadequate* as a regulatory method because of its non-specificity. APHIS/USDA also use this same method in monitoring tissue for this general class of compound (total sulfonamide). Further identity of positive finding are not used, making FDA regulatory action impossible.

RECOMMENDATION

A sensitive screening method should be developed that separates all of the sulfa drugs. Existing GLC, TLC or high pressure liquid chromatography determinative steps could fulfill this requirement but the proper extraction and clean-up steps would have to be researched.

3. 3,5-Dinitrobenzamide—The NADA *tissue method* (for the parent compound) uses a dimethyl sulfoxide-diethylamine colorimetric determinative step.

REMARKS

This color reagent, reacts with any metadinitro aromatic compound. This tissue method is *inadequate* when there are compounds present that have a similar functional group.

RECOMMENDATION

A more specific tissue method should be developed for this drug residue.

4. Phenothiazine and sulfaquinoxaline—adequate tissue methods are *not yet available.*

5. Thiabendazole and ormetroprian—The NADA tissue methods both use for fluorimetric determinative step. Both methods use different excitation and emission wavelengths, but for these methods to be adequate on an unknown tissue sample, it must be proven that all other compounds that might be present, would not also be measured and therefore give a false positive.

6. Levamisole and 2-acetylamino-5-nitrothiazole—The NADA tissue methods use a oscilloscopic polarograph for the determinative step. For these methods to be adequate on an unknown tissue sample, it would have to be proven that all other compounds present do not have the same functional group which would be measured by these methods.

RECOMMENDATION

More specific tissue methods should be developed.

D. and E. Pesticide Residues.

1. We should assure ourselves the APHIS/USDA tissue pesticide monitoring program includes coumaphos, dichlorvos, famphur, haloxon and ronnel.

2. We should assure ourselves that FDA's pesticide monitoring program on milk includes famphur and ronnel.

All of the above mentioned drug pesticide residues in (1) and (2) should be able to be detected by the FDA–PAMI and PHS pesticide analytical manual screening methods with the least amount of method development.

3. All of the other carbamates, organochlorinated and organophosphated pesticide residues should be screened for in tissue, milk and eggs. At the present time these contaminate pesticide residues have no FDA tolerances. These tolerances should be set by BF and BVM, so regulatory action can be taken on positive findings.

F. Specialized drugs, that if abused could lead to potential residues having a physiological effect.

1. Hydrocortisone in milk—The NADA residue method uses a isonicontinic acid colorimetric determinative step for quantitation.

2. Methyl prednisolone, prednisolone and prednisone in milk—The NADA residue method uses a porter-silber reagent colorimetric determinative step for quantitation.

COMMENTS

All four drug residues would quantitate by either of the two methods above. At the present time FDA is not screening milk for steroids.

RECOMMENDATION

Confirmatory methods, such as TLC, for each of the four drug residues need to be developed.

3. Reserpine—The NADA tissue method uses a fluorimetric determinative step for quantitation.

RECOMMENDATION

We must assure ourselves, that on an unknown tissue sample, *no* other substance present that can be induced to give fluorescence, will interfere in the method.

G. Less toxic drugs, that if abused could lead to overtolerance residues.

1. Amprolium, Aklomide, Ethoxyquin, Buquinolate, Decoquinate, Nequinate—All NADA tissue methods use a fluorimetric determinative step for quantitation.

RECOMMENDATION

We must assure ourselves that any of these drug residues (or any other substance present) will not interfere with the individual analysis.

2. Zoalene—The NADA method uses the 1, 3-diaminopropane colorimetric reagent for the parent compound and the Bratton-Marshall colorimetric reagent for the ANOT metabolite. Both methods are non-scientific.

RECOMMENDATION

Even though both methods have been collaborated by the AOAC, we are not assured that other substances present in the tissue do not interfere in the two methods when analyzing an unknown tissue sample. The specificity of the methods should be investigated.

3. Clapidol—The NADA tissue method uses a methyl derivative formation and FID–GLC determinative step for quantitation.

RECOMMENDATION

The NADA method is adequate but a confirmatory method needs to be developed.

4. Ethopabate—The NADA tissue method uses an ec-GLC determinative step for quantitation.

RECOMMENDATION

The NADA method is adequate but a confirmatory method needs to be developed.

5. Nicarbazin and Nithiazide are old drugs that are still used today. No drug residue tissue methods are available.

RECOMMENDATION

Because these are old drugs still used today without available tissue methods, we should re-review any tissue residue data and determine if present tolerances are adequate. We should also require the adequate tissue residue methods be developed for regulatory purposes.

6. Chlorhexidine—The NADA tissue method should be re-reviewed for specificity and its use as a regulatory method.

IV. SUMMARY OF REGULATORY TISSUE METHODS WE CAN SUGGEST TO BE ADDED TO APHIS/USDA'S TISSUE MONITORING PROGRAM

1. Of all the carcinogen drug residues listed in part IIA, we can only recommend that APHIS/USDA add Ipronidazole to their tissue monitoring program and that they continue monitoring for DES. In the meantime confirmatory methods for residues of both drugs must be developed. The seventeen remaining drug residues in part IIA can not be included in a monitoring program because of lack of adequate tissue methodology.

2. Of all the antibiotic drug residues listed in part IIB we can not even recommend one additional residue to APHIS/USDA's existing antibiotic monitoring program because of lack of adequate tissue methodology.

3. Of all the toxic drug residues listed in part IIC, we can not even recommend one additional residue to APHIS/USDA's existing tissue monitoring program because of lack of adequate methodology.

4. We can recommend that the pesticide residues listed in part IID and E can be added to APHIS/USDA's tissue pesticide monitoring program. They should be able to detect these residues with their present screening procedures with the least amount of method development.

5. We can not recommend the initiation of FDA compliance program for the specialized drugs in part IIF nor recommend any additions from this group to APHIS/USDA's tissue monitoring program due to lack of adequate methodology.

6. Of all the less toxic drugs listed in part IIG we can only recommend the addition of Clopidol and Ethopabate to APHIS/USDA's present tissue monitoring program. Confirmatory methods still need to be developed for both drugs.

V. RECOMMENDATIONS FOR ACTION BY FDA

1. BF with aid of BVM should assign surveillance sampling priorities of all veterinary drugs listed in Part I and II of this memorandum. Such a review should identify all those drugs that are suspect or known carcinogens and determine priorities on the basis of health hazard of illegal residues.

2. The *total* drug residue problem should be the subject of a staff paper that could address itself to the following points:

(a) Policy change in DNAD, requiring all future NADA tissue residue method to be regulatory, that is, specific, sensitive, accurate, precise and workable for monitoring programs which could lead to regulatory action.

(b) Formation of a coordination group in BVM on drug residue problems. We found that each part of the BVM staff had certain specific information on drug residues but were not informed of other actions or information of drug residues that were very pertinent on what they were doing. In this vacuum there is a lack of overall policy or control over the total drug residue picture.

(c) Even after we determine the priority of sampling based on health hazard of illegal residues, the U.S. Government still has the responsibility to the American public to monitor tissue, milk and eggs for *all* drug residues. If an overtolerance drug residue is not a health hazard, then we should consider revising the drug residue tolerance, FDA has published.

(d) Formation of scientific development group within FDA and/or USDA that would develop screening procedures for whole classes of drug residues so that *all* drug residues are detectable by the least amount of analytical time. The estimated time this group would need to develop the appropriate methods and its cost should be determined and presented to the Commissioner of FDA to be included in the budgetary process.

(e) Should industry or FDA develop confirmatory methods for all these drug residues?

(f) Because USDA has different objectives for their tissue monitoring program than what FDA expects such a monitoring program to be; we can (1) convince USDA to change their program to include our needs (2) we can start our own monitoring program, or (3) we can consider revoking all NADA's that have a tolerance in tissue and can not be properly monitored.

(g) Should BVM propose to withdraw those NADA's now that do not have adequate regulatory tissue methodology until the firms come in with adequate methodology?

(h) Should BVM require even more sensitive tissue regulatory methods for the carcinogens in light of available radio immuno assays?

3. This report should be the subject of an in-depth discussion of all BVM members who are involved in drug residues, before any of our recommendations are implemented.

Unless FDA resolves this drug residue problem, we will soon be in direct confrontation with Congress and the consumers defending an untenable position. For FDA to ignore this problem would be disastrous.

K. K. JOHNSON, D.V.M.

SENATOR PELL'S STATEMENT IN 1962 ON CONFIRMATION OF COMMISSIONER FARRELL OF THE IMMIGRATION AND NATURALIZATION SERVICE

Mr. PELL. Mr. President, it is with real sadness that I learned that President Nixon has with "special regret" accepted the resignation of Commissioner Raymond Farrell of the Immigration and Naturalization Service.

I can vividly recall on February 5, 1962, speaking on behalf of Commissioner Farrell's confirmation for this most important position. I ask unanimous consent at this time to insert in the RECORD at this point the statement that I made at that time.

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

Mr. PELL. Mr. President, I wholeheartedly approve confirmation of the nomination of Mr. Raymond Farrell for the position of Commissioner of Immigration and Naturalization.

First, let me say that I know Ray Farrell personally as a fine and honorable man. He was born in my own State of Rhode Island in the city of Pawtucket. He graduated from both Georgetown University and Georgetown Law School. Shortly after leaving Georgetown Law School, he was admitted to the District of Columbia bar and became a special agent of the Federal Bureau of Investigation on August 3, 1931. From 1932 to 1941 he worked for various Government agencies, such as the Public Work Administration, Interior Department, and the Federal Communications Commission. In 1941 he joined the Department of Immigration and Naturalization as a special inspector. Eighteen months later in 1942 he entered the Army Air Force, where he served as a major in Italy and received a bronze star for his work as an intelligence officer. On March 18, 1946, he returned to the Immigration Service, where he became chief of the New York investigation division. Because of the fine work he did in this capacity, he was appointed Assistant Commissioner in 1949 and once again he was promoted to Associate Commissioner for Operations in 1958.

I know that in his performance as Commissioner of Immigration and Naturalization, he will combine and practice those two necessary qualities that are so necessary and both

of which he already possesses, a compassionate heart with a thorough knowledge of the law.

Mr. President, I believe that President Kennedy most wisely made an excellent appointment in his selection of a career official, Ray Farrell, for this responsible post, and I congratulate the President on his choice.

Mr. PELL. Raymond Farrell is a brilliant career official who has been in the Federal Government for over 40 years and was selected by the late President Kennedy to be Commissioner of Immigration and Naturalization Service. His departure from public service will be a real loss to our Government, for, as I predicted a decade ago, he combined "a compassionate heart with a thorough knowledge of the law."

In my State of Rhode Island, we are particularly proud of Ray Farrell because he is a Rhode Islander, born in Pawtucket, who has maintained his residence and his ties with his home State through his years of service in the Federal Government here in Washington.

Mr. President, I could speak at great length as someone who is greatly interested in the plight of refugees and those from less fortunate nations, who desire immigration to our shores. No man in Government has more exemplified what America is all about than this man who was charged with the enforcement and administration of our immigration laws. It is written in the Bible, Micah 6: 8:

What does the Lord require of thee, but to do justly, and to love mercy, and to walk humbly with thy God?

This is Ray Farrell. On March 31, 1973, his career as a public servant will come to an end, but his philosophy and his humanity will stand out like a beacon. I hope, Mr. President, that his successor will try to emulate the policies of compassion which he set forth as Commissioner of the Immigration and Naturalization Service.

THE IMPACT OF THE NIXON BUDGET ON MINNESOTA

Mr. HUMPHREY. Mr. President, I have addressed the Senate a number of times concerning the impact of the newly proposed Nixon budget on the people of this country.

I have labeled that budget a budget of domestic retreat. It fails to meet the needs of our people. It fails to add the extra element of compassion for those who have less. It is deceiving because tax increases at the State and local level will likely result, even in the face of the President's "no tax increase" pledge.

I have recently received from the Minnesota State Planning Agency a detailed estimate as to how the 1974 budget will impact my State.

The outlook is grim.

In agriculture, in education, in housing, in health, in poverty programs, the effect of the Nixon budget will be to cripple public services.

I have pledged to the people of my State that I will fight these cutbacks. I will not let a budget that means more comfort for the comfortable, more tax breaks for the special interest, and more broken promises for farmers and working Americans become a reality.

Mr. President, I ask unanimous consent that a publication from the Minnesota State Planning Agency be printed at this point in the RECORD.

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

THE IMPACT OF THE PROPOSED FEDERAL BUDGET FOR FISCAL YEAR 1974

(CAUTION: The information contained in this report is preliminary and based on several different sources. It is subject to change as new information becomes available and it should be treated in that manner.)

INTRODUCTION

The move to "hold the line" on government spending, broadly hinted at in December and January, was revealed in its entirety within the Fiscal 1974 budget message, sent to Congress on January 29. The Administration presented a proposal for federal expenditures to not exceed a ceiling of $268.7 billion. Within this proposal, designed to reinforce the ceiling, were numerous program cancellations, suspensions, and consolidations, including three packages of specific "special revenue sharing" programs, for law enforcement, education and community development, as well as an additional proposal to lump manpower programs into a consolidated fund for distribution to state and local governments.

These four proposals would have a total value of $6.9 billion for the 1974 fiscal year. Specifically, the law enforcement plan would convert the block grant program of the Law Enforcement Assistance Administration into an $800 million fund. The proposal for education would consolidate 33 programs into a pool of $2.8 billion for "special revenues." The urban development plan advocates consolidation of the Urban Renewal, Model Cities, Water and Sewer, Neighborhood Facilities, and Rehabilitation Loan programs of the Department of Housing and Urban Development to provide $2.3 billion during Fiscal Year 1974. The manpower plan asks only for an extension of existing statutes, which would enable the Administration to consolidate more than a dozen categorical grant programs into a single fund.

The uncertain future of these special revenue sharing plans and the vagueness surrounding which programs may or may not be included makes it all but impossible to gauge the impact these program changes will have in Minnesota. Officials have stated that the $6.9 billion total to be expended is roughly equal to anticipated expenditures under the 70 separate programs being consolidated.

MAJOR PROGRAM FUNDING CHANGES PROPOSED IN THE ADMINISTRATION'S FISCAL YEAR 1974 BUDGET

The following chart indicates the major program changes in the Administration's proposed budget. The chart also indicates Minnesota's recent participation in the programs that are being affected by the budget changes.

	National fiscal year 1973 budget	National fiscal year 1974 budget	Change	Minnesota's fiscal year 1972 receipts
AGRICULTURE				
Department of Agriculture:				
Forest service roads	$163.	$97.0	—$63.	[1] $2.2
School milk program	97.	25.0	—72.	2.6
REAP	182.	10.0	—172.	3.9
Rural electrification	619.	375.0	—243.	21.5
Watershed and flood prevention	139.	111.0	—28.	.9
Resource conservation and development	21.	19.0	—2.	.5
ANTIPOVERTY				
Office of Economic Opportunity:				
Community Action	285.3	----------	—285.3	4.0
Migrants and Indians	36.3	40.0	+3.7	1.1
Health and nutrition	165.2	147.0	—18.2	.3
Community economic development	30.7	39.3	+8.6	----------
Legal services	73.8	71.5	—2.3	----------
General support	18.5	[2] 33.0	----------	[3] 1.1
COMMUNITY DEVELOPMENT				
Department of Housing and Urban Development:				
College housing	[4] 26.6	(5)	----------	.81
Model Cities	583.	(5)	----------	4.7
Neighborhood facilities	26.0	(5)	----------	1.1
Open space land	57.	(5)	----------	1.8
Water and sewer facilities	130.	(5)	----------	2.4
Urban renewal program	1,000.	137.5	—862.5	32.2
Rehabilitation loans	50.	(5)	----------	2.0
Community development training	----------	(5)	----------	----------
Housing payments	1,663.	Moratorium	----------	13.23

	National fiscal year 1973 budget	National fiscal year 1974 budget	Change	Minnesota's fiscal year 1972 receipts
Department of Agriculture:				
Housing subsidies	$81.2	Term.	—$81.2	$8.7
Rural water and waste disposal	92.0	Term.	—92.0	.17
ECONOMIC DEVELOPMENT				
Department of Commerce:				
Economic development assistance	301.	Term.	—301.	4.
Regional development commission program	42.	Term.	—42.	2.5
EDUCATION				
Department of Health, Education, and Welfare:				
Higher education facilities construction	[4] —24.3	Term.	—24.3	.59
Opportunity grants	[4] 286.5	Term.	—286.5	6.7
College library resources	[4] 10.3	Term.	—10.3	.07
Library services—Interlibrary Coop	[4] —2.5	Term.	—2.5	----------
Higher education:				
U community services	[4] 9.3	Term.	—9.3	.18
Aid to land grant colleges	[4] 12.	Term.	—12.	6.0
Environmental education	[4] 1.8	Term.	—1.8	----------
ESEA:				
Title I	1585.	(6)	----------	22.5
Title II	90.	Term.	—90.	1.8
Title III	146.	(6)	----------	2.6
Title V	33.	Term.	----------	.61
Title VII	35.	$35.0	None	----------
Title VIII	8.5	Phaseout	----------	.47
Federally impacted areas	430.9	(6)	----------	3.8
NDEA, title III	1.5	Term.	—1.5	.05

Footnotes at end of table.

	National fiscal year 1973 budget	National fiscal year 1974 budget	Change	Minnesota's fiscal year 1972 receipts
EDUCATION—Continued				
Department of Health, Education, and Welfare—Continued				
Education for the handicapped	$37.	(6)		$0.69
Vocational education:				
Basic grants	457.	(6)		7.1
Research	36.	(6)		.17
Adult education	61.	(6)		.77
Education Professions Development Act	106.	$73.0		.13
Follow Through	57.	41.0	$16.	.62
Library services:				
Services	24	Term.	24.	.86
Construction	.712	Term.	.712	.18
HEALTH				
Department of Health, Education, and Welfare:				
Hill-Burton	175.	Term.	175.	1.5
Regional medical program	125.	Term.	125.	1.8
Training research scientists	150.	Term.	150.	15.
MANPOWER				
Department of Labor:				
Public service employment	$1,250.	Term.	—$1,250.	$14.7
Work incentive program	290.	$530.0	+540.	2.5
JOBS				1.86
Special revenue sharing:	1,174.1	1,160.0	—14.	
Public service careers				.78
C.E.P.				4.26
Grants to States				14.2
C.A.M.P.S.				.24
MDTA institutional training				3.1
Neighborhood Youth Corps				6.8
Operation Mainstream				2.48
NATURAL RESOURCES AND ENVIRONMENT				
Department of Interior: Land and Water conservation fund	126.3	50.0	—76.3	4.38
Environmental Protection Agency: Office of Solid Waste Management Programs	30.	5.8	—24.2	.186
WELFARE				
Department of Health, Education, and Welfare:				
Public assistance	5,962.	5,370.0	—592.	105.0
Medical services	4,301.	5,235.0	+934.	68.7
Social services	2,444.	1,890.0	—554.	34.0

[1] Fiscal year 1972 figures are used because fiscal 1973 figures are not yet available. It is anticipated that the 1973 receipts will not greatly differ from the 1972 receipts, except in cases where funds were impounded during the 1973 fiscal year.
[2] This sum is for the purpose of insuring "the orderly phaseout of outstanding grants and contracts of discontinued activities."
[3] Funds for Program Development.
[4] Funds expended during fiscal year 1972.
[5] To be included under Community Development Special Revenue Sharing.
[6] To be included in Education Special Revenue Sharing.

AGRICULTURE

The Administration has proposed a reduction in the budget of the Department of Agriculture from $10.1 billion in Fiscal Year 1973 to $9.6 billion in fiscal year 1974. The Administration claims that these cuts represent an actual savings of $2 billion. The major reduction in the budget for the Department of Agriculture would come from the Administration proposal for lower support payments and related activities. These reductions would cut the Commodity Credit Corporation budget from $3.4 billion in fiscal 1973 to $2.9 billion in fiscal 1974.

The following other major program reductions were proposed in the budget:

Forest Service Roads—Elimination of Forest Service road building activities related to timber production reducing the budget by $63 million, from $163 million in Fiscal Year 1973 to $97 million in fiscal 1974.

School Milk Program—Limitation on the school milk program of $25 million, reducing the budget $72 million.

Rural Environmental Assistance Program—Elimination of the Rural Environmental Assistance Program reducing the budget $172 million.

Water Bank Program—Elimination of the Water Bank Program reducing the budget $367,000.

Rural Electrification Administration—Elimination of the REA loans and Rural Telephone loans reducing the budget $216 million.

Soil Conservation Service—Reduction in the programs administered by the Soil Conservation Service, primarily in the Watershed and flood prevention program and Resource conservation and development program. Total reduction for SCS of $31.2 million, $355.9 million to $324.6 million.

Impact on Minnesota

The following outlays were made during Fiscal Year 1972 in Minnesota under the Department of Agriculture programs affected by the Administration 1974 budget.

Forest Services Roads	$2,204,081
School Milk Program	2,599,839
Rural Environmental Assistance Program	3,892,566
Water Bank Program	18,187
Rural Electrification and Telephone Loans	21,504,885
Watershed and Flood Prevention	225,859
Resource Conservation and Development	317,926

ANTI-POVERTY

The Fiscal Year 1974 budget provisions include abolishment of the Office of Economic Opportunity. The impact of this dismantlement is difficult to assess immediately, however, for many of the programs will be transferred to other administering agencies: the Department of Health, Education, and Welfare will administer Indian and Health programs; the Department of Labor will assume the O.E.O. Migrant programs; and the Office of Minority Business Enterprise will run the Community Economic Development programs. The burden to support the continued existence of the local community action agencies will fall to the state and local governments.

Besides these program transfers, the budget includes a proposal to establish a "Legal Services Corporation" with a recommended budget authority of $72 million for the 1974 Fiscal Year. The level of funding which will accompany the O.E.O. programs in their moves to other agencies is estimated at:

[In millions of dollars]

Program and administering agency	Fiscal year 1972	Estimate, fiscal year 1974
Community Action: Local option	$35.0	
Migrants and Indians: DOL, HEW	36.0	$40.0
Health and Nutrition: HEW	157.2	147.0
Community Economic Development: Commerce	26.0	39.3
Legal Services: New	67.7	71.5
Child Development, Research Evaluation: HEW, HUD	45.0	78.0
General Support: GSA	18.2	33.0

Impact on Minnesota

During Fiscal Year 1972, Minnesota received $7.37 million in O.E.O. monies. The bulk of these funds, about $4 million, were received for Community Action programs. For the entire state, the discontinuance of the Community Action program will affect 35 Community Action Agencies and approximately 875 persons currently employed by those agencies.

COMMUNITY DEVELOPMENT

Requested appropriations for the Department of Housing and Urban Development for Fiscal Year 1974 equal $2.68 billion, as compared with $3.83 billion in Fiscal Year 1972. The great decrease in the 1970 budget is primarily due to the virtual elimination of appropriations for community development programs. The following Department of Housing and Urban Development programs have been terminated:

College Housing
Model Cities
Neighborhood Facilities
Open Space Land
Water and Sewer Facilities
Urban Renewal Programs
Rehabilitation Loans
Public Facility Loans
Community Development Training
Supplementary Grants for New Communities.

Other H.U.D. programs that have been suspended, with a moratorium on funding, include the Department's four major subsidy programs: low-rent public housing, rent supplements, Section 235 subsidies for homeownership assistance and Section 236 subsidies for rental assistance.

In addition to the cutbacks in the Department of Housing and Urban Development, comprehensive changes within the Department of Agriculture will affect community development. Subsidized housing programs of the Farmers Home Administration were placed in a moratorium, including:

Farm Labor Housing Loans and Grants

Rural Rental Housing Loans and Cooperative Housing Loans.

In addition, the "Rural Water and Waste Disposal Grants" program is also being eliminated.

The impact of the H.U.D. cutbacks may not be severely felt in some areas for some time, due to outstanding obligations. Some $7.4 billion for Model Cities; $122.3 million for Neighborhood Facilities; $5.685 billion for Urban Renewal; $17.5 million for Rehabilitation Loans; $288 million for Open Space;

$390.9 million for Sewer and Water; $94.2 million for Public Facility Loans. The various assisted housing programs are expected to continue at an average annual national rate in excess of 250,000 units during the 18 month moratorium—same as the past 12 months—due to the gap between project approval and financial expenditures. The impact of the moratorium on Minnesota however, would be the loss of approximately 3,000 units under the 235, 236 and rent supplement programs and approximately 2,000 units under the public housing for the elderly and low income family programs. These programs would represent a loss of approximately $75 million in construction and related costs of new project approvals.

The Administration's rationale for such massive budget cuts may be seen as an impetus to force passage of a special Urban Community Development Revenue Sharing. This proposed revenue sharing fund will equal $2.3 billion, about $300 million over current outlays for the programs to be consolidated into the proposal; however, the increase will primarily reflect projects approved in prior years, but not yet funded.

Impact on Minnesota

In Fiscal Year 1972, Minnesota received approximately $58 million in H.U.D. funds under programs which have been either suspended or terminated:

Sewer and Water	$2,405,689
Model Cities	4,764,968
Open Space Land	1,795,010
Rehabilitation Loans	2,000,000
Urban Renewal	32,238,345
Community Development Training	61,398
Neighborhood Facilities	1,107,175
Housing Payments	13,238,345

The Farmers Home Administration Subsidized Housing Loans brought $8.7 million into the state in fiscal 1972; Rural Water and Waste Disposal Grants equalled another $169,600 in that same fiscal year.

The Housing Assistance Council has estimated that the Farmers Home Administration housing moratoriums over the 18-month period may equal as much as $21 million in Minnesota.

CRIMINAL JUSTICE

Funds requested for Fiscal Year 1974 for Criminal Justice activities total $2.6 billion, only $100 million higher than funding for fiscal 1973. By far the bulk of these monies will go to the Law Enforcement Assistance Administration. L.E.A.A. funds allocated for the fiscal year equalled $891 million, a $40 million increase over the previous fiscal year. The Administration is proposing that $800 million of this $891 million be channeled through special Law Enforcement Revenue Sharing, and through L.E.A.A. discretionary funding. The special revenue sharing will replace the Safe Streets Act authorizing L.E.A.A., which expires at the close of Fiscal Year 1973.

Impact on Minnesota

Minnesota received $11 million in grants for law enforcement assistance in fiscal 1972.

ECONOMIC DEVELOPMENT ADMINISTRATION

The Administration's budget includes provisions for the complete elimination of the Economic Development Administration of the Department of Commerce. Many of the programs that are presently administered by EDA will be blended into the Department of Agriculture and the Small Business Administration. The elimination of the agency will not terminate grants and loans that have already been made.

The basic programs that are administered by the Economic Development Administration are:

Grants and Loans for Public Works and Development Facilities—The purpose of this program is to assist in the construction of public facilities needed to initiate and encourage long-term economic growth in designated geographic areas where economic growth is lagging behind the rest of the nation.

Loans for Businesses and Development Companies—The purpose of this program is to provide low interest long term loans to help businesses expand or establish grants in redevelopment areas for projects that cannot be financed through private lending institutions.

Planning Assistance—The purpose of this program is to assist multi-county districts develop planning capability.

Technical Assistance—The purpose of this program is to solve problems of economic growth in EDA designated geographic areas and then areas of substantial need through feasibility studies, management and operational assistance, and other studies.

Public Works Impact Projects—The purpose of this program is to provide immediate useful work to unemployed and underemployed persons in designated project areas.

Under these programs the Economic Development Administration will administer $181 million in grants and $86 million in loans during fiscal year 1973.

The EDA programs that are being eliminated are being replaced in the program budget by the following program changes in other federal agencies:

The U.S. Department of Agriculture—The budget allows for the Department of Agriculture to provide $200 million in loans in fiscal year 1974 to communities with populations of less than 50,000 for commercial and industrial development. The USDA, under the proposed budget would provide $110 million in grants and loans for communities under 10,000 population for public facilities.

The Small Business Administration—The Small Business Administration under the proposed budget would increase its business loan programs by 30% to $600 million.

Bureau of Indian Affairs—The budget also provides for a Bureau of Indian Affairs program that will provide $25 million to Indians for projects similar to those provided by EDA.

The Administration's budget also proposes the elimination of federal involvement in all regional commissions except the Appalachian Regional Commission. The budget proposes a $10 million program which will support planning and management activities of commissions the states wish to retain. The fiscal year 1973 budget provided $44.5 million to the regional commissions.

Impact on Minnesota

During fiscal year 1972, Minnesota received approximately $4 million in grants and loans from the Economic Development Administration. The state also received $2.5 million in supplementary grants and technical assistance from the Upper Great Lakes Regional Commission.

The significance of these funds must be measured in terms of purpose of the programs involved. The main goal of both EDA and the Upper Great Lakes Regional Commission is to provide economic development and higher employment.

In Minnesota 27 counties qualify for full financial assistance under Title IV of the Public Works and Economic Development Act of 1965. An additional 23 counties qualify for just grants under Title I. Thirty eight counties in northern Minnesota are included in the Upper Great Lakes Regional Commission.

EDUCATION

Total federal education outlays will reach an estimated $13.8 billion in 1974, an increase of $247 million over estimated outlays for 1973. These outlays are within a $5.1 billion budget for the Department of H.E.W.'s Office of Education and National Institute of Education. In spite of a slight budgetary increase, many popular aid programs are being discontinued. The following specific higher education programs are being abandoned:

Higher Education Facilities Construction

Supplementary Opportunity Grant Program

College Library Resources

Library Services—Interlibrary Cooperation

Higher Education—University Community Services

National Defense Student Loans

Higher Education—Aid to Land Grant Colleges

Environmental Education

A major change for higher education is the Administration's reliance on student aids for financing higher education. A new Basic Opportunity Grant program will furnish $948 million to 1.5 million students. This program appears designed to absorb the cancellations of other major student assistance programs. Work-Study will continue, and a new Student Loan Marketing Association is expected to provide $1.6 billion in guaranteed loans. The higher education budget also calls for $100 million to strengthen developing institutions.

The shifts within education programs are part of an effort to establish an Education Special Revenue Sharing program. The Administration proposed $2.8 billion to support this revenue sharing to be spent in the following manner:

Compensatory education for the disadvantaged, $1.7 billion.

Education for the Handicapped, $37.5 million.

Vocational and adult education, $.526 million.

School assistance in federal affected areas, $.232 million.

Basic School Lunch Program, $.244 million.

(Money allocated for the various categorical grant programs which will probably be included under the E.S.R.S. totalled about $3 billion for Fiscal 1973)

Impact on Minnesota

Specific program cuts and cancellations in Minnesota are estimated as follows:

Program	Fiscal year 1972	Proposed fiscal year 1974 status
ESEA:		
Title I (disadvantaged)	22,500,000	(1)
Title II	1,814,858	(2)
Title III (innovative progress)	2,657,851	(1)
Title V (strengthen State depts.)	610,264	(2)
Title VII		
Title VIII	475,000	(3)
Federally Impacted Areas	3,855,000	(4)
NDEA Title III (Educational equipment)	50,000	(2)
Education for the Handicapped Basic Grants	691,697	(1)
Vocational Education:		
Basic Grants	7,139,138	(1)
Research	167,392	(1)
Adult Education	776,771	(1)
Education Professions Development Act	134,931	(3)
Follow Through	619,066	
Library Services:		
Services	864,552	(2)
Construction	177,882	(2)
Higher Education—Aid to Land Grant Colleges	240,657	(2)
National Defense Student Loans (Contribution to loan fund)	6,664,898	(2)
Education Opportunity Grants	4,267,327	(2)
Higher Education Facilities Construction subsidized loans	587,128	(2)
College Library Resources	72,790	(2)
Library Services—Interlibrary Cooperation	49,606	(2)
Higher Education—University Community Services	176,562	(2)
Enviornmental Education	5,140	(2)

[1] Programs to be included in educational revenue sharing.
[2] Terminated.
[3] Programs to be phased out during fiscal year 1974.
[4] Aid to school in federally impacted areas—This program is being curtailed to allocate funds only to districts where parents both live and work on Federal property. This change accounts for approximately a 39-percent loss in the program, which is already being cut from the fiscal 1972 level.

Because of the uncertain status of the Education Revenue Sharing proposal, the loss or impact of many of these monies may not be entirely felt for some time. One of the most measurable program impacts, however, is the cancellation of the E.S.E.A. Title V program—Grants to Strengthen State Department of Education. The Minnesota Department of Education calculates that at least one-eighth of the four hundred employees supporting that program will be cut out, as well as the internal and external planning capability and the new programs initiation capability of the department. Other activities supported by that program, which must be absorbed by other funds or programming efforts, include the Educational Assessment Program, some fiscal research, some training efforts, and much of the data processing.

HEALTH

The Administration's budget in health program includes an overall increase, but at the same time eliminates four major health programs. The major increase in health programs is reflected for Medicare. The budget for the National Institutes of Health decreases more than $200 million—mostly due to the cut in training programs. The National Institute of Mental Health budget was increased mostly due to the fact that NIMH will pick up drug and alcoholism programs from the Office of Economic Opportunity.

Hill-Burton—The Hill-Burton program will expire at the end of fiscal year 1973. The current fiscal year obligations are estimated at $175 million.

Regional Medical Program—The Regional Medical Program will expire at the end of the current fiscal year. Estimated obligations for fiscal year 1973 are $125 million.

Community Mental Health Program—The new budget would phase out the community mental health center program. The budget proposes to continue to fund the existing 515 centers but would not provide funds to expand the number of centers to the original goal of 2000 across the county. Fiscal year 1973 obligations for construction, initiation and development is estimated at $11 million.

Training Research Scientists—The budget does not include funds for NIH programs for training research scientists. The research training prgorams had been running at about $150 million per year.

Medical Research—The budget proposes an increase in cancer research of $91 million, and an increase of $28 million for heart, lung disease research, but includes cuts in other medical research.

Medical Training—The budget proposes to reduce support for training nurses, veterinarians, optometrists, podiatrists, pharmacists, and public health personnel.

Impact on Minnesota

The following outlays were made during fiscal year 1972 in Minnesota under Health programs affected by the Administration's 1974 budget:

Hill-Burton Program, $1,536,112.

Regional Medical Program, $1,765,135.

Community Mental Health Centers, $1,682,749.

Community Mental Health Centers—There are currently no new Community Mental Health Centers planned in Minnesota that would receive federal funds. The existing centers will continue to receive funds for staffing.

Hill-Burton—The current state plan for the allotment of Hill-Burton funds proposes to pool the 1972 and 1973 fiscal funds due to the large size of two of the proposed projects. However, with the veto of the 1973 HEW appropriation bill, only funds for Fiscal 1972 have been spent. The following projects have been funded from the 1972 allocations:

Grants:

Hennepin County General Hospital, $1,634,998.

Metropolitan Medical Center, $596,331.

Riverview Hospital, Crookston, $184,762.

Courage Center, Golden Valley, $112,960.

Loans:

Metropolitan Medical Center, $4,883,305.

Linking Center—Hennepin County, General and Metro Medical Center, $4,382,028.

Review Hospital, Crookston, $791,200.

Courage Center, Golden Valley, $318,693.

Regional Medical Program—The Northland Regional Medical Program which is a totally federally funded program would be discontinued under the proposed budget. Their budget for a period from April 1, 1972 to April 30, 1973 is $1,936,698. They expect an additional $255,932 to complete the current present fiscal year. Currently, the program employees 19 full-time and 4 part-time core staff people plus a number of people at the University of Minnesota and the Mayo Clinic.

Medical Research and Training—The proposed cutbacks in Health Services and research traineeship will have a severe effect upon the University of Minnesota. The Administration program reflects no intention of continuing major federal support of biomedical research in areas other than heart and cancer and no intention of making funds available for the large research training grants program. Currently the Health Services of the University of Minnesota has a total of $11,692,255 in NIH research grants. The University also has $15,197,126 in NIH research training grants.

The President's proposed budget would reduce research funds in areas for which its University has developed special competence. The discontinuance of the research training grants would wipe out support for 301 scientists at the University. The program has produced 1,040 physicians in the last 20 years, 62.9% of whom fill full-time academic positions. The Administration budget proposes an 86% cut in the professional nurse training program. This means that 36 of the 40 graduate students currently under the program at the University of Minnesota would have to be dropped.

MANPOWER

For the broad range of manpower programs, the Administration is proposing expenditures of $4.8 billion in fiscal 1974 compared to an estimated $5.3 billion expended in fiscal year 1973. This 9.2% decrease in manpower funding is primarily reflected through the "phasing out" of the Public Service Employment Program, which has subsidized approximately 140,000 jobs in state and local governments during the past fiscal year. About $580 million is left over for the 1974 fiscal year to support the program in its final days. The P.E.P. program in Minnesota supported 1,787 participants at the state level and an additional 700 slots were available at the city and county level at the close of fiscal year 1972, after having received $14 million in federal support that year. The phasing out of the program would mean that, by the end of the fiscal year, Minnesota would lose at least the equivalent of that 1972 funding, or $14,735,900.

Other manpower programs may suffer a greater percentage decrease as the Administration seeks to implement a form of "special revenue sharing" which would absorb about $1.3 billion of the Department of Labor's $2.76 billion portion of the manpower budget. Outlays for about a dozen of the Department of Labor's categorical manpower grant programs will be lumped into this $1.3 billion general fund. These revenues will be managed under the 1962 Manpower Development and Training Act and the 1964 Equal Opportunity Act. Programs, such as On-the Job Training, Classroom Instruction and the Neighborhood Youth Corps will be discontinued as the budget instead proposes distributing approximately $880 million (75% of the $1.3 billion) to state and local government, giving them the option of directing the funds to specific programs as they choose. The "revenue sharing" monies are expected to support a total program enrollment at an average of 363,100 during Fiscal Year 1974, compared to 405,000 during Fiscal Year 1973. The remaining manpower revenues of the Department of Labor will probably continue to be channeled into specific programs. Outlays for the Work Incentive Program (WIN) under the Department of Labor are expected to increase to over $530 million from $290 million. The Job Corps and the J.O.B.S. programs are also expected to remain intact. Outlays for programs to enforce occupational safety and health laws will rise; the budget does expect, however, to decrease unemployment compensation expenditures by about $300 million.

Most manpower programs administered by agencies other than the Department of Labor anticipate holding even, or expanding slightly during the fiscal year. The Veterans Administration, for instance, has increased on-the-job training for returning veterans to a total of $203 million, up $29 million. The Equal Employment Opportunity Commission expects to spend $13 million more, a total of $43 million.

Impact on Minnesota

The net effect of the proposed manpower budget on Minnesota is difficult to gauge on a program-by-program basis, since the specific programs are being consolidated. Minnesota received $53.25 million for Department of Labor Manpower programs in fiscal 1972. The $1.3 billion proposed for revenue sharing is about a 15.7% cut in the specific programs.

Program	Fiscal year 1972 funds	Proposed fiscal year 1974 status
Public Service careers	783,800	(1).
Public Service Employment Program.	14,700,000	Phased out.
Concentrated Employment Program	4,260,000	(1).
WIN	2,570,000	Increase.[2]
Grants to States	14,280,000	(1).
CAMPS	246,000	(1).
JOBS	1,860,000	Maintained.[3]
MDTA Institutional Training	3,190,000	(1).
NYC	6,800,000	(1).
Operation Mainstream	2,480,000	(1).

[1] To be included in Special Revenue Sharing.
[2] National funding for WIN is proposed to increase over fiscal 1972.
[3] The basic JOBS program will remain intact; the JOBS optional program will be incorporated into the Special Revenue Sharing.

Minnesota anticipates receiving approximately $17 million under the manpower revenue sharing proposal, compared to an estimated $21 or $22 million received under the individual grant programs in fiscal 1972.

NATURAL RESOURCES AND ENVIRONMENT

Federal aid for environmental concerns and natural resources for Fiscal Year 1974 is estimated at $6.9 billion, a $700 million increase from Fiscal Year 1973.

Outlays for the Environmental Protection Agency will equal $2.1 billion, an increase of $980 million. Of these funds, $1.6 billion has been allocated for construction of waste treatment plants. Other water pollution programs will amount to $166 million. Outlays for various air pollution programs will be $160 million. The Solid Waste Control program is being cut to $5.8 million from a $30 million request during fiscal 1973.

The total budget for the Department of Interior is down to $2.5 billion, a decrease of $365.7 million from fiscal 1973. This reduction is reflected basically in funding for the Land and Water Conservation Fund, which is being sliced from over $200 million to $50 million for the 1974 fiscal year.

Impact on Minnesota

The effects of proposed natural resources funding on natural resources aid receipts in

Minnesota are profound. For Fiscal Year 1972, Minnesota received $4.38 million for L.A.W.C.O.N. and Outdoor Recreation Assistance. With the decrease in the L.A.W.C.O.N. budget, it is anticipated that the level of funds allocated to Minnesota under that program will drop to about $800,000.

Minnesota received $8 million from the Environmental Protection Agency during fiscal 1972, including $3.8 million for Construction Grants for Wastewater Treatment Works. The state anticipates an increase to $61 million for the 1974 fiscal year from the $40.6 million anticipated for Fiscal Year 1973, for such construction grants. However, these allotments represent a 50% decrease for Fiscal Year 1974 from the $122 million which would have been the state's share had the full Congressional appropriation under the Water Quality Act been released.

TRANSPORTATION

The budget proposals for transportation call for total funds at approximately the same level as for Fiscal Year 1973. However, the budget proposals attempt to change the balance of federally funded transportation activities in urban centers.

Federal Highway Administration—Highway Trust Funds—The proposed budget calls for the use of $4.6 billion of the highway trust fund. This is approximately the same level as fiscal year 1973, which means the administration intends to impound approximately $1.4 billion during fiscal year 1974.

The budget would eliminate some of the funding rigidity of the present categorical highway grants. Under the proposed budget, cities and states would be allowed to use some highway trust fund monies for urban highways or mass transit.

National Highway Traffic Safety Administration—The program funding level for highway traffic safety would increase $14 million to $169 million under the proposed budget for Fiscal Year 1974. Funds for state and community highway safety would remain about the same. The increase would exist in funds for research, development and demonstration projects.

Impact on Minnesota

The budget proposal for the use of highway trust fund money would mean that Minnesota would receive approximately the same amount of federal funds for highways as it received in Fiscal Year 1973; this would include the impoundment of approximately $20 million.

Since Fiscal Year 1967 the difference between the federal aid highway funds apportioned to Minnesota and the amount actually obligated has amount to $108.1 million.

Fiscal year	Apportioned	Obligated	Held back
1967	92.6	69.5	23.1
1968	102.3	88.8	13.5
1969	111.1	95.9	15.2
1970	119.4	108.1	11.3
1971	118.8	108.0	10.8
1972	103.1	90.7	12.4
1973	103.4	81.5	21.9
Total			108.1

WELFARE

The Fiscal Year 1974 budget for HEW proposes a cut in expenditure for public assistance from $14 billion to $12.7 billion. HEW expects to make this cut by implementing new regulations. These new regulations would limit federal financial participation in state welfare programs to eligible individuals. The new regulations are expected to reduce the HEW budget by $659 million.

Social Services—The department also plans to promulgate some new regulations for the social services program. These regulations would restrict social services spending to $1.8 billion in fiscal year 1974. That $700 million lowers the limits Congress imposed in September.

Maintenance Payments—On January 1, 1974 under the *supplementary security income* program enacted last year the Federal Government assumes full responsibility for providing basic assistance for the aged, blind and disabled. Federal outlays for benefits will total $1.7 billion for the second half of 1974, aiding about 6 million people. Additional payments of $150 million will be made to states assuring them that supplementing the federal benefit level need not require state outlays higher than in 1972.

Impact on Minnesota

Social Services

The proposed new regulations for the social services program will have a profound effect upon Minnesota. As of February 22, the estimated Federal social services funds to be spent in Minnesota in Fiscal Year 1973 is $34 million. The estimated expenditure of federal funds for Fiscal Year 1974 under the proposed regulations is only $12 million. If Minnesota is to continue to honor current public policy and laws relating to social services and only maintain the present service program level it will need approximately $22 million additional federal funds.

Maintenance Payments

The changes in the regulation for maintenance payment which will go into affect in January 1974 could have an affect upon Minnesota. Under the new proposed regulations an additional 64,000 aged would be eligible for old age assistance. Of these recipients approximately 52,000 would also then become eligible for the medical assistance program. This would cost the State government about $11 million.

AIDING OUR LIBRARIES

Mr. McINTYRE. Mr. President, few of our institutions have meant more to our democracy or our free way of life than our libraries. One of the first steps of dictators is to destroy libraries and burn books. Take away from us the wisdom, the enjoyment, the facts and figures which exist in our libraries and you take away a cornerstone of America.

Therefore, there has been considerable concern expressed—and I think rightly so—about the proposals to drastically restructure the programs of Federal aid to libraries. As I understand what is happening, we would completely cut off most categorical aid to libraries and would leave these vital institutions to fend for themselves in the street fighting over a share of revenue sharing.

All too often when discussing the impact of funding changes on programs we have to do it in nationwide terms. We therefore, talk in terms of cuts of millions of dollars nationwide, instead of the thousands of dollars, jobs, needs, priorities, and usefulness at the local level. I am particularly pleased that the library groups in New Hampshire have set forth in some detail exactly what the libraries of New Hampshire are able to do under existing funding, the impact of the proposed cuts in programs in terms of meeting needs, retaining specialists, and developing plans for the future.

Mr. President, I want my colleagues to have the benefit of these facts so that they can have a true picture of what happens when we act here in Washington. I ask unanimous consent that these reports on the library situation in New Hampshire be printed in the RECORD.

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

REPORT ON EXPENDITURES OF FUNDS RECEIVED BY NEW HAMPSHIRE UNDER THE LIBRARY SERVICES AND CONSTRUCTION ACT, 1957–73

I. ACHIEVEMENTS IN NEW HAMPSHIRE UNDER THE LIBRARY SERVICES AND CONSTRUCTION ACT. 1957–73

1. The small, totally inadequate panel truck bookmobiles were replaced with custom-built bookmobiles with triple the book capacity in 1957 and 1958. These bookmobiles were again replaced in 1970 and 1971.

2. Funds available for the purchase of books for the bookmobiles has been doubled, and is still just barely enough to meet the increased demand for service.

3. Spoken word recordings have been added to the bookmobile collections.

4. The Exeter District office for bookmobile service to the southeastern area of the State was established in 1957, thus ensuring that all sections of the State received equal service.

5. Bookmobile service to schools was discontinued, thus ensuring a greater supply of books for public libraries.

6. Each of the four District Offices obtained a full-time professional District Library Consultant, whose services are available to the libraries of each District. A non-professional position of Bookmobile Supervisor freed the professional for consultant work, whereas he formerly spent most of his time actually on the bookmobile.

7. Establishment of Extension & Library Development Division at State Library to supervise District Offices and all consultant services to public libraries.

8. Establishment of North Country Libraries Film Cooperative with Maine and Vermont, which provides films for public libraries exclusively.

9. Publishing of "North Country Libraries" from 1957 through June of 1971. This bimonthly periodical went free to all librarians and trustees, and was issued in cooperation with Maine and Vermont.

10. Production of film "The Day the Books Went Blank" in cooperation with the other five New England States.

11. Establishment of bi-monthly book selection meetings throughout the State for the benefit of local public libraries.

12. Founding of New Hampshire Library Trustees Association.

13. Founding of Friends of New Hampshire Libraries.

14. Initiative supplied for founding of 63 local Friends groups.

15. Establishment of New Hampshire Library Council.

16. Employment for eleven years of professional public relations firm to promote libraries throughout the State. Received John Cotton Dana Publicity Award in 1959.

17. Publication of "Granite State Libraries" (formerly "Books and Libraries") for local librarians and trustees.

18. Publication of numerous handbooks, brochures, etc. to assist the local library.

19. Analytical study of library service in New Hampshire carried out by Department of Government at UNH.

20. Work of Governor's Committee for Better Libraries, whose report, "Libraries Are For People," formed the basis for legislative approval of the Statewide Library Development Program.

21. Establishment of four District Advisory Councils to advise State Library Commission.

22. Adoption of qualifications for public library membership in Statewide Library Development Program.

23. Initiation of Statewide Library Card in 1970.

24. Distribution of grant-in-aid to librar-

ies participating in the Statewide Library Development Program.

25. Innumerable workshops for local staff members.

26. Extension courses in "Public Library Techniques" to supplement the regular summer program at UNH.

27. Centralized catalog service for local public libraries, and provision of this service by contractual agreement to Maine and Vermont.

28. Centralized book ordering for local public libraries, since discontinued.

29. Increased staff and resources for central reference service from Concord.

30. In-depth surveys of over ten public libraries, with recommendations for the future.

31. Grants to 28 public libraries for construction projects.

32. Study by Arthur D. Little, Inc. concerning program for use of funds under Titles III, IV A, and IV B.

33. Establishment of library teletype network to speed interlibrary loan.

34. Strengthening of staff handling maintenance of Union Catalog so it can be kept current.

35. Purchase of copying machines and microfilm reader-printers for numerous public, academic, and special libraries in order to speed interlibrary loan system.

36. Annual grants to six libraries who consistently loan more books than they borrow under the interlibrary loan system.

37. Establishment of professional staff to aid in improvement of the six state institutions.

38. Annual book grants to the six institutions for improving their collections.

39. Availability of film service for the institutions.

40. Workshops for institutional library staff.

41. Special grants to institutions for such things as constructing new library at N.H. Hospital, furnishing new libraries at Laconia State School and Industrial School. Also funds to hire professional staff at Laconia and the Industrial School.

42. Establishment of talking book service branch for blind and handicapped readers.

43. Purchase and distribution of large-print books to libraries of the State.

44. Sustaining membership in New England Library Information Network.

45. Training of State Library staff at Ohio State University Planning and Evaluation Center for development of *Long-Range Program for Library Service in New Hampshire.*

46. Establishment of N.H. State Advisory Council on Libraries representing all types of libraries and user groups.

47. Issuance of Report and Recommendations of Ad Hoc Committee to Study the Functions of the New Hampshire State Library in 1973 after year-long study by Committee and six Subcommittees involving 38 persons.

48. Special project grants in 1971 and 1972 to ten local libraries administering projects to improve the quality of library services to inadequately served populations (such as disadvantaged groups), involving the cooperation of 43 libraries and many social agencies.

CURRENT IMPACT OF THE LIBRARY SERVICES AND CONSTRUCTION ACT IN NEW HAMPSHIRE IN FISCAL YEAR 1973

Federal funding under the Library Services and Construction Act

(Public Law 91–600, U.S.C. 351) will provide New Hampshire residents with the following services during the current fiscal year:

Bookmobile services will provide 313,000 volumes to local libraries for loan as supplementary reading materials to the State's 442,608 rural and suburban residents (72 bookmobile hours per week).

Institutional library services will be provided to the libraries in the six State supported health and correctional institutions serving 3,885 residents.

Library services for the blind and physically handicapped will provide 40,000 specialized reading materials and equipment to 6,431 residents.

Local libraries awarded special project grants in 1972 for developing programs for priority target populations will provide specialized services and materials for 17,000 urban and rural disadvantaged residents, 3,700 aging residents, 1,500 children with learning disabilities, and 7,000 residents of French Canadian heritage.

The State's total population of 737,681 will have available improved services resulting from:

Continuing education for 200 local library staff members in 125 public libraries.

Improved communications and public relations through the publication of *Granite State Libraries* circulated to all libraries and members of seven statewide library organzitions (circulation 2,000).

Centralized catalog card service for local public libraries.

Film services providing 3,500 films to local libraries and institutions.

Professional consultant services for local public libraries amounting to 248 hours per week.

Teletype network for interlibrary loan requests making it possible for any citizen in the State to have rapid access to all of the six million volumes in New Hampshire libraries.

In addition to these currently ongoing programs made possible through Titles I and III of the Act, Title II funds from 1965 to 1972 assisted 28 local communities in such construction projects as new libraries, renovations and additions.

The effect of total abolition of Library Services and Construction Act funds for fiscal year 1974 would mean the elimination of all of the above programs. The total population of the State would suffer a loss of library services as a result. The State library would find it necessary to discharge 24 employees. In short, Library service in New Hampshire would find itself at least at the level of 1956, if not worse.

Although the State and Local Fiscal Assistance Act of 1972 (Public Law 92–512) commonly referred to as the Revenue Sharing Act specifically includes libraries among the eight Priority Expenditures, and therefore would provide a funding source in lieu of LSCA for some of these services, these funds have not been forthcoming for New Hampshire libraries.

II. IDENTIFICATION OF PRESENT AND PROJECTED NEEDS, TITLE I—LIBRARY SERVICES

Statewide library development

In 1970 all but 5,914 or .8% of New Hampshire's 737,681 residents had public library services available locally. At present 189 of the 231 public libraries in the State are participating in the Statewide Library Development Program. To strengthen public library service statewide all public libraries in the State should participate. There is also a need to evaluate the services under the program to determine strengths and weaknesses and future directions in such areas as: broadening the organizational pattern to include all types of libraries eligible for affiliation; requiring accreditation of libraries; developing a standardized plan for service center services and accountability requirements; and centralized technical processing services.

The State Library presently provides consultant services by professionally-trained librarians to local libraries. These librarian-consultants are presently generalists whose advice and guidance are sought and appreciated by the smaller public libraries. The great need is for highly-trained specialist consultants to work with the larger public libraries and with other types of libraries. This solution was also recommended by the Governor's Committee for Better Libraries in 1961.

There is a need to evaluate present bookmobile services and to determine whether and where they are providing services according to the original intent of supporting small libraries by providing materials while the libraries built their collections locally.

There is a need to determine the areas of the State designated as urban and rural areas with high concentrations of low income families and otherwise disadvantaged persons and to devise action programs to provide services where they do not now exist.

State financial support of libraries

Under the Statewide Library Development Program, enacted into law by the General Court in 1963, every library participating in the Program is entitled to receive an annual grant-in-aid to improve its book resources. The smaller libraries, known as Affiliated Libraries, are eligible to receive up to $500. annually on a dollar-for-dollar matching basis. The larger libraries, known as Service Center Libraries, are eligible to receive, on the same matching basis, annual grants ranging from $2,500. to $10,000. depending on the population of the municipality. The purpose of this grant-in-aid program is twofold:

(1) to ensure that local libraries will maintain a basic reference collection sufficient to meet the most common needs of the community; (2) to reimburse the larger public libraries for making their services and resources available to citizens of the area needing more than can be found locally. Under the Program all participating libraries must honor the New Hampshire Statewide Library Card, which means that any citizen who is a registered borrower in good standing at any participating library can use this card at any other participating library. These grants are designed to reimburse local taxpayers for making local library facilities open to all citizens. To the present time legislative appropriations for the grant-in-aid program have made it possible to award only about 20% of the funds authorized; at the immediate present no State funds for grants are available. This lack of full funding seriously endangers the entire philosophy upon which the Statewide Library Development Program is based. At the present time, for example, three of the largest and strongest city libraries have withdrawn from the Program rather than accept the Statewide Library Card without the accompanying grant-in-aid. Actual experience with the Card may well force others to do likewise.

Statewide library resources

In 1970 public and college libraries in New Hampshire reported owning collections which totaled more than six million volumes. Of these holdings 2.6 million were in public libraries and the remainder in academic and state libraries. The largest book collection in the State is at Dartmouth College, with the State Library and the University of New Hampshire second and third in size. Only three public libraries had more than 100,000 volumes in 1970. These six libraries own nearly one half of the books in the State. The remaining libraries with smaller collections obviously have a high level of duplication with the result that the breadth and depth of publications needed by a modern society are lacking. There is a great need for the development of a formal statewide program which would eliminate unnecessary duplication and make possible wider acquisition of needed materials.

All libraries have specific responsibilities to their patrons which must be met but most

libraries are finding that even those which can grow at a reasonable rate, cannot keep up with the increased pace of discovery of new knowledge and the resulting volume of publishing.

The State Library historically has served as *the* central reference resource for all the libraries of the State. Recent years have shown rapidly-increasing awareness and use of this program by public, academic, school, and special libraries—all of whom turn to the State Library for materials too specialized for local collections. This is one of the State Library's most essential and popular functions, and one which is keeping up with demand only with great difficulty. Lack of sufficient new books and other library materials is making it increasingly difficult to meet demands. Out of a total annual publication in this country of 40,000 new titles, the State Library is able to add only about 8,000 titles. If the expenditures for the Law Library Division are deducted as a specialized service of little significance beyond a limited clientele, the State Library's book budget is less than that of some of the city libraries, considerably less than that of the two State Colleges, and shockingly less than that of the University. All of these libraries turn to the State Library for assistance. Furthermore, there is nowhere in the State a significant public collection of library materials on business and technology. Such a collection should be available, and would be of great assistance in promoting the growth of the State's economy.

Rare books and many older publications relating to New Hampshire are found in many local libraries and the New Hampshire State Library. Over the years much valuable material, unrecognized as such, has been indiscriminately discarded or allowed to be ravaged through mistreatment or neglect. There is a need that these valuable materials be identified, that a record be made of them, and that their preservation be ensured. It is suggested that some public libraries would like the availability of a central depository for such material, and would like advice on the identification, value, and proper handling of rare volumes.

There are several well-developed school, college and university media centers throughout the State and public library interest in building non-print collections is increasing. There is a need for centralized information on these collections, their location and extent of holdings, and possible cooperative arrangements in their acquisition and use need to be investigated.

Since 1957 the State Library, in cooperation with the Maine State Library and the Vermont Department of Libraries, has operated the North Country Libraries Film Cooperative. This consists of a collection of films especially selected for use in public libraries, and the growth in its use has been spectacular. The result is that the three state library agencies are finding it more and more difficult to meet the demands because of the limited size of the film collection. It is also true that the original, rather informal arrangements for handling, ordering, booking, and repairing the films is proving inadequate for the increasing demands for service.

Possible cooperative arrangements with departments of education toward funding, increasing collections and serving schools as well as public libraries need to be investigated.

Personnel and library education

At the present time the State Library has a professional staff of twenty; to meet long-range needs and objectives toward providing significantly improved and expanded services would increase this staff by at least 70%. Of the 231 local public libraries only 13 employ professionally-trained librarians. The remaining public libraries are operated by community librarians dependent on the State Library for training. There are three needs apparent:

(1) Providing the means of educating more professionally-trained librarians for service in the public libraries of all communities of 10,000 population or more, plus the State Library; (2) providing formal courses and workshops to better train the many community librarians in the State; and, (3) providing opportunities for continuing education for the professional librarians in the State. Quality library service on all levels is only possible with well-trained and educated personnel.

At present, certification of librarians is on a voluntary basis, and is done on application of the individual. Requirements for qualification for affiliation with the Statewide Library Development Program is in a sense a regulatory system of certification for both librarians and libraries. However, many librarians are able to take only those courses in Public Library Techniques which are offered as extension courses, and so do not complete the program. Also, there is a great rate of turnover of librarians in local libraries.

The lack of any required qualifications for librarians in the small public libraries of the State is responsible for the great disparity in library services available in the small communities. Libraries affiliated with the SLDP are gradually overcoming this handicap, as new librarians are appointed, since the incoming librarian is required to take the courses in Public Library Techniques. The librarians of the unaffiliated libraries are not affected by these requirements. These needs apply also to the large public libraries in the State.

Statewide, there is a multitude of job titles in the field of librarianship. Among those positions which require training there is no standardized system of position classification or requirements, nor schedule of recommended compensation for meeting the training requirements at the various levels which do exist. In-service training programs within the State are practically non-existent. With the development of training programs such as the Public Library Techniques Program and, recently, the Library Technical Aides program which offers an Associate of Arts degree upon its two-year completion with opportunity to continue toward a Bachelor of Arts degree, a problem has arisen in many local libraries as to equitable placement and compensation. Guideline recommendations are lacking. There is a tremendous need that a career ladder complete with job classifications, training requirements, and recommended compensations, be developed. This should also provide for trainee programs at various levels.

Library services to institutions

Under the LSCA as amended, "Library services for the institutionalized" means the provision of library services to inmates, patients or residents of penal institutions, reformatories, residential training schools, orphanages, residential schools for handicapped persons, and other general or special institutions or hospitals operated or substantially supported by the State of New Hampshire.

State Library Services to the Institutionalized have made excellent progress toward fulfilling many of the needs cited in the Arthur D. Little Report of September, 1967.

The Division regularly serves six State institutions, all of which have arranged for some library facilities and/or staff. Five consistently use the bookmobile service. The Division provides workshop training of institutional staffs. While considerable progress has been made in improving physical facilities, personnel, resources, and services at these institutions, much remains to be done. It is unfortunate that these programs cannot legally be extended at this time to include such government institutions as county jails and county homes, and private institutions such as the Spaulding Youth Center. The program has been limited to aiding the library programs for residents, with little or no effort to assist the staffs in their specialized library needs. In some states, the State Library has legal responsibility for operating all library services in state institutions; in New Hampshire the State Library only administers federal funds to improve library services in them.

Needs are:

(1) The services should be made available to ALL social assistance institutions, (county homes, hospitals, nursing homes, etc.) whether such institutions are funded by state, local government or private agencies.

(2) Many institutions could arrange space (as the six now served have done) and some staffing of a library. The State Library would need to provide considerable training and consultant service, both to the institution and to public libraries of the area.

(3) Funds should be budgeted in each institution, regardless of size or population, for materials for both residents and professionals, with additional materials available through:

(a) Interlibrary loan.

(b) Bookmobile, or some form of delivery.

Library services to the handicapped

Under the Library Services and Construction Act, as amended, "Library services for the physically handicapped" means the providing of library services, through public or other nonprofit libraries, agencies, or organizations, to physically handicapped persons (including the blind and visually handicapped) certified by competent authority as unable to read or use conventional printed materials as a result of physical limitations.

Services now available are a centralized library of books on record, tape and tape cassette delivered by free mail to any eligible person in the State; a machine distribution agency; a volunteer register of available narrators; a copying program from tape to tape cassette or reverse; an occasional newsletter; displays and consultant services on request.

Over 6,000 New Hampshire residents are eligible for library services for the handicapped. These figures include persons with the following disabilities:

Blindness	1,500
Visually handicapped	2,000
Victims of crippling diseases	2,500
Other	50
Total	6,050

Persons needing these services are, necessarily, unable to use regular library service and/or material. Their confinement, as well as the circumstances causing that confinement, intensifies their need for good library service. Reports of National Accreditation Council for Agencies Serving the Blind and Visually Handicapped indicate cost per confined person may be as much as five to seven times that of the walk-in-library patron, yet cost per circulation is relatively low, since that person has more free time. Each person is a member of our statewide library community.

The first full year of State Library Services to the Handicapped greatly increased the number of persons served individually and through health care institutions and schools. At present, most individual handicapped receive materials by mail upon direct request to the Division of the Handicapped. Such persons could often be located by a local library staff. Therefore, it is logical to arrange service for them through request from local libraries; public, school, industrial or other. Defined needs are:

(1) Services to the handicapped should be available to ALL disabled persons, regardless of age, or period of reading disability.

(2) Equipment to use other materials than books need to be made available locally. Respositories at Service Centers would place both equipment and materials nearer the source of need, with an inventory of all equipment, and its location, filed with the State Library Service to the Handicapped. Training for the use of equipment would be necessary for key people, who might also deliver such equipment and instruct the user. Talking books, tapes, and such materials could be delivered by mail if the handicapped were homebound, by library visit, if not.

(3) Such an outreach program would require pertinent user's training for, and consultant service to, librarians.

(4) A concentrated public information program should accompany such training with continuing news items in BOOKS AND LIBRARIES for information and for use with patrons.

(5) A pilot project among contiguous libraries to demonstrate such a service program could be evaluated for techniques applicable on a statewide basis.

TITLE II. PUBLIC LIBRARY CONSTRUCTION

With the recent removal of the Supreme Court and the Law Library Division to new quarters and the subsequent renovation of the State Library building, facilities for services are presently adequate. However, there will be a future need for space for more books, and in addition, the approval of any substantial portion of the programs contained in this document will place added burdens on the building.

Most communities in this State have public library buildings. Also, most of these buildings are old-fashioned or inadequate in size. Some federal funds have been available since 1965 to assist 28 local communities in such construction projects as new libraries, renovations and additions. Some states supplement this federal money with state funds. In actual fact, federal funds have not proven an adequate incentive for most communities in this State which badly need improved public library facilities.

TITLE III. INTERLIBRARY COOPERATION

With the vast increase in demand for information of all kinds which has become evident in recent years, libraries have assumed great importance as repositories of information. It is no longer possible for a local library with a small collection, or for that matter any library, to meet all the needs of the citizenry without help from other libraries.

The interlibrary loan system

The State Library has for many years served as the center for interlibrary loan activity in the State. In this way, through the cooperation of all libraries, especially public and academic, all the resources of the State are available to any citizen through his own local library. The State Library maintains a Union Card Catalog of the nonfiction holdings of 40 large public and academic libraries. It also has an extensive collection of bibliographic resources which enables the staff to quickly identify and locate materials to be found at other locations in the country. All requests for interlibrary loan are sent to the State Library for verification, and then forwarded to the library holding the requested material. At the present time most such requests are received by mail, although thirteen libraries now have a teletype connection with the State Library.

The needs in this area of interlibrary loan are several: (1) More staff to handle interlibrary loan requests and maintenance of the Union Catalog; (2) Larger collection of billiographic materials; (3) More rapid communication of requests by telephone and/or teletype; (4) Truck delivery service of materials being loaned; and (5) Possible conversion of the present Union Catalog to some automated retrieval system.

Intertype library cooperation

There is a good history of cooperation between the State Library, the statewide program of public library development, and the academic libraries. However, the school library role in statewide coordination of library activities needs study and recommendations for improvements.

III. EXPENDITURES OF FEDERAL FUNDS FOR LIBRARY PROGRAMS IN NEW HAMPSHIRE UNDER THE LIBRARY SERVICES AND CONSTRUCTION ACT

Title I. Public library services, 1957–73, total $2,213,016.

Title II. Public library construction, 1965–72 (no funds in 1973), total $1,095,346.

Title III. Interlibrary cooperation, 1967–73, total $252,826.

Title IV(A) (formerly, now in title I). Library service to institutions, 1967–73, total $242,620.

Title IV(B) (formerly, now in title I). Library service to institutions, 1967–73, total total $153,720.

Total, all titles 1957–73, $3,957,528.

The original legislation, known as the Library Services Act, was enacted by Congress in 1956. The first allotment of funds was made available for the last six months of fiscal 1957, ending June 30, 1967. The original Act limited the expenditure of funds to improving public library service in rural areas, i.e. communities of less than 10,000 population. The program initiated in 1957 involved opening the bookmobile office in Exeter, purchasing four new bookmobiles, increasing the number of books available from the bookmobiles, establishing the library film cooperative with Maine and Vermont, establishing the periodical "North Country Libraries," engaging the services of a professional public relations firm to improve the image of libraries.

In fiscal 1965 the title of the Federal legislation was changed to Library Services & Construction Act. The program previously carried on now came under Title I of this Act (Public Library Services), and the restriction concerning population was removed, thus making all areas of the State eligible to receive Services under the Act. A new Title II (Public Library Construction) was added at this time. Under Title II the State Library dispersed matching Federal dollars to local libraries erecting new buildings, or renovating or adding to older libraries. Since 1965 such grants have gone to the following 28 libraries: Salem, Meriden, Dover, Concord, Rye, Durham, Claremont, Newport, Keene, Bow, Somersworth, Bedford, Dublin, Francestown, Moultonborough, Franconia, Nashua, Tuftonboro, Harrisville, Canterbury, the State Library, Lincoln, North Hampton, Rindge, Londenderry, Nashua Chandler Library, and Laconia. The rules and regulations governing Title II have remained essentially unchanged during this period.

With the new legislation in 1965 the funds available under Title I for services to public libraries increased substantially. Since the Governor's Committee for Better Libraries had just finished its report, "Libraries Are For People," and since the legislature had just enacted the Statewide Library Development Program into law, the additional funds were used to begin implementing this new Program. Parts of the Program which were implemented at this time were: Establishment and staffing of Division of Extension and Library Development, addition of District Library Consultants and Clerk-Typists to each of the four District Offices, centralized book ordering and cataloging, establishment of District Advisory Councils.

In fiscal 1967 Congress added three new programs to the Act. Fiscal 1967 funds for these programs were limited in amount, and restricted to planning. Arthur D. Little, Inc. was engaged to propose a program for use of these funds. When actual operating funds became available for these new titles in fiscal 1968, the program outlined by the Little firm was carried out, insofar as funds were available to do so. Title III for Interlibrary Cooperation marked the first time that funds under this Act could be used to aid nonpublic libraries. In brief, the funds were used to staff the maintenance of the Union Catalog at the State Library, to purchase copying machines and microfilm reader-printers for various libraries, to establish a teletype network for interlibrary loans, and to award annual money grants to the six libraries contributing more books to the interlibrary loan system than they borrowed. This program is still continuing.

Under Title IV A (Library Service to Institutions) one professional librarian and one clerical employee were hired to help improve library service at the State Prison, N.H. Hospital, Laconia State School, State Industrial School, Glencliff, and the Soldiers' Home. A considerable amount of the grant is used to purchase books for these institutional libraries, the amount being apportioned according to their inmate population. Also certain sums are granted each year for special projects such as, the new libraries at the Hospital and the Laconia School; a half-time professional at the Industrial School, equipment, etc. This program is still continuing.

Under Title IV B (Library Service to the Handicapped) a Regional Library for the Blind and Handicapped has been established under the auspices of the Library of Congress. This new Division, partially funded with State funds, provides Talking Book service to the blind and handicapped of the State. The staff consists of one professional and three clericals. This program is still continuing.

Beginning in fiscal 1972 (July 1, 1971) there has been another change in the program. Titles I, IV A and IV B have now been combined into a new Title I. Titles II and III remain separate as before, with the exception that in the future no local matching funds are required for Title III funds. Although the three Titles have been merged into one new Title I, the State is still required to expend at least as much in fiscal 1972 for former Title IV programs as it did in the past.

It should be emphasized that all Federal funds obtained under this Act since the beginning have been disbursed by the State Library. Under Title I (Services) all funds have actually been spent by the State Library to improve its services to local libraries—none of it has been distributed directly as cash to any local library.

Under the new Act there is established the State Advisory Council on Libraries. The functions and responsibilities of this Council are as follows:

1. Advise the State agency on the development of the State plan, including the preparation of long-range and annual programs.

2. Advise the State agency on policy matters arising in the administration of the State plan.

3. Assist the State agency in evaluating library programs, services, and activities under the State plan.

IV. ALTERNATIVES TO FEDERAL FUNDING

Since libraries are included among the eight Priority Expenditures in the General Revenue Sharing Act, public libraries in New Hampshire have been encouraged to apply for a share of these funds at the local level. Hopefully some of the libraries will gain support from this funding source toward reinstating in part some of the services which have been made available through the State Library under LSCA funding.

Currently local public libraries are being polled to determine the prospect of receiving funds from this source. Of 93 questionnaire responses to date 6 libraries are hopeful of some financial support from this source in 1973 or 1974. The remaining 87 responses indicate that local revenue-sharing funds will not be available for library programs. It is stated most frequently that these funds have been earmarked for local capital expenditure projects or to reduce the property tax rate.

Revenue sharing funds are also being sought on the State level, as are State funds, for continuation of some of the direct services furnished by the State Library to local public libraries. Program priorities have been determined in conjunction with the local libraries in requesting alternative support from the State.

The effect of the proposed cuts in the New Hampshire State Library budget for the biennium 1974-1975 is as follows:

State funds:	
Fiscal 1974	$424,774
Fiscal 1975	425,226
Federal funds (LSCA):	
Fiscal 1974	519,290
Fiscal 1975	522,190
Other (contract for catalog card service with Maine and Vermont):	
Fiscal 1974	$17,500
Fiscal 1975	17,500

Over 40% of the State Library's budget (after deducting Title II Public Library Construction funds) comes from Federal funding under the Library Services and Construction Act. It is unlikely that the State can provide alternative funding to this extent in 1974 and 1975. The result will mean the elimination of many ongoing programs affecting the local libraries and their readers.

REPORT ON EXPENDITURES OF FUNDS RECEIVED BY HIGHER EDUCATIONAL INSTITUTIONS IN NEW HAMPSHIRE UNDER THE HIGHER EDUCATION ACT OF 1965, TITLES II, III, AND VI, AND THE HIGHER EDUCATION FACILITIES ACT, TITLES I AND II, AFFECTING LIBRARIES

I. Volumes held, data as reported in "Library Statistics of Colleges and Universities, 1962-63: Institutional Data" and "Library Statistics of Colleges and Universities, Institutional Data, pt. A, fall 1971"

College	Volumes held		Enrollment		Volumes per student	
	1962-63	1970-71	1962-63	1970-71	1962-63	1970-71
Belknap		21,000		523		47.3
Canaan		12,000		77		130.4
Colby Junior	31,651	42,114	550	607	57.5	62.6
Dartmouth	866,255	1,030,749	3,404	3,764	254.4	271.8
Franconia		21,000		364		54.0
Franklin Pierce		29,461		981		27.4
Mount St. Mary	21,561	33,093	283	257	76.1	134.0
New England Aeronautical		9,000		395		21.9
NEC	15,000	47,978	531	1,037	28.2	40.3
NHC		22,233		1,026		15.8
New Hampshire Technical, Concord		9,636		414		19.4
Notre Dame	11,921	24,772	281	361	42.4	56.4
Rivier	42,048	69,700	583	453	72.1	84.5
St. Anselm's	42,731	71,675	1,339	1,405	31.9	47.7
UNH	327,349	46,0126	3,890	8,279	84.1	53.2
UNH, Plymouth State	27,354	96,989	995	2,030	27.4	36.8
White Pines		8,254		90		86.0
Keene State	37,950		1,320	2,004	28.7	
Nathaniel Hawthorne				832		

II. Funds granted to New Hampshire institutions of higher education for library programs and development, fiscal year 1966 to fiscal year 1972, $4,365,872:

(a) HEA Title II-A: College Library Resources:

1966	$63,184
1967	238,615
1968	378,499
(UNH portion of NELINET Grant)	35,325
1969	117,971
1970	48,130
1971	56,655
1972	29,619
Total	968,003

(b) HEA Title II-B: Library Training and Research:

(1) 1971-72, $144,203, Merrimack Valley Branch, UNH.

(2) 1971, $110,000, New England Center for Outreach Leadership Network, serving all New England states but primary benefits to New Hampshire.

(3) Grants awarded for graduate professional library education by Library schools to individuals who have accepted positions in New Hampshire. Because of the method of disbursement of these funds, it is impossible to determine all persons and libraries affected without contacting every graduate library school. At least one person, an Assistant Librarian at Dartmouth College, has benefited from this program and would not have entered the profession otherwise.

(c) HEA Title III: Developing Institutions: $24,150 provided under this title for a library consultant to serve New Hampshire College and University Council libraries during fiscal year 1968.

(d) HEA Title VI-A: $0 recommended 1973. Also $0 for 1974 and terminated:

Lab equipment and CCTV

1966:		
Dartmouth	8,317	--
NEC	8,158	--
PSC	14,077	916
1967:		
Dartmouth	11,340	--
KSC	6,865	5,973
Nathaniel Hawthorne	11,999	--
NEC	1,730	--
PSC	10,000	--
Rivier	8,000	--
1968:		
Franklin Pierce	1,990	—
KSC	—	3,000
St. Mary	1,764	—
Nathaniel Hawthorne	13,223	—
Notre Dame	10,683	—
PSC	15,000	3,451
St. Anselm's	13,251	—
1969:		
Belknap	12,527	—
KSC	3,190	—
NE Aeronautics	21,897	—
NEC	—	371
Notre Dame	3,612	—
PSC	—	6,000
St. Anselm's	13,267	—
1970: Nothing.		
1971:		
Belknap	5,723	—
NHC	11,639	4,112
St. Anselm's	7,120	—
1972:		
NE Aeronautics	17,657	—
NHC	2,692	1,600
Notre Dame	1,489	—
PSC	14,711	—
St. Anselm's	10,657	4,578

(e) HRFA title I, category 104: Library buildings (undergraduate):

1967, $22,381, NEC.

1966, $159,436, NEC.

$737,456, UNH.

1967, $382,922, Franklin Pierce.

$272,778, St. Mary.

1969, $327,320, Nathanial Hawthorne.

1971, $338,303, NHC (multi-purpose building of which a significant portion was for library).

HEFA title I, category 103: Library buildings (community colleges):

1968, $247,537, NH Tech. Inst., Concord (multi-purpose significant portion for library).

1970, $76,419, $199,326, NH Tech. Inst., Concord, Belknap College (withdrawn and redistributed in part to NHC).

HEFA title III: Interest subsidy for library buildings;

1971, Franconia College, $11,379 (building renovation including library).

1971, Nathanial Hawthorne, $12,097.

1971, New Hampshire College, $24,673 (multipurpose building, about ¼ for library).

1971, St. Anselm's, $14,195.

III. What library programs have accomplished in New Hampshire:

Federal funds as listed above to developing institutions within New Hampshire have improved library collections and buildings to permit accreditation by the New England Association of Secondary Schools and Colleges, the National Council for Accreditation of Teacher Education, or other special accrediting agencies. Significant growth in higher education in New Hampshire occurred during this period and continues despite a downward trend in some other states. Strong library programs with adequate print and non-print resources are essential for institutions of higher education to offer quality educational programs. Ten New Hampshire colleges and universities united to form the New Hampshire College and University Council in 1966 to share resources and facilities, and large portions of the FY 67 and 68 HEA Title I-A Grants were awarded to its members for interlibrary cooperation. Each library elected a subject area in which it would develop a collection in depth, a system to avoid duplication of expensive but little used materials was initiated, very costly items were purchased cooperatively and placed on call in a central facility (University of New Hampshire), truck service to speed interlibrary loans among the ten campuses and the New Hampshire State Library twice weekly was initiated, plus several other less dramatic cooperative endeavors. These are strong programs on which the cooperating libraries and colleges depend. It is likely that

additional New Hampshire colleges will join NHCUC as they become accredited, thus enlarging the total resources available to all.

Funds received for libraries under HEA and LSCA have been used to benefit all New Hampshire citizens. The Outreach Leadership Network at the New England Center, under which over 100 New England public librarians received training to "reach the unreached", was funded through an HEA Title II–B Grant LSCA Title III Grants to the New Hampshire State Library have provided teletype communications linking public and academic libraries throughout the state to improve interlibrary loan service. Title II–B Grant funds to the Merrimack Valley Branch of the University of New Hampshire for a library technician training program provides an educational option for persons in the Model Cities area while helping to meet staff needs in schools and public libraries.

IV. Needs still to be met by continuation on these programs: New Hampshire developing institutions' libraries continue to have collections that do not reach minimum standards of the American Library Association for colleges and research libraries, and may still lack adequate buildings. The University of New Hampshire struggles to serve its doctoral programs as well as being a resource for the rest of the state. The public colleges have limited funding resources, and the state taxes support level is highly inadequate. At the same time educational technology demands more and more diversification in library holdings; prices for all library materials continue to rise; enrollments increase; these are the needs that must be met and wtihout federal funds will probably not be met in New Hampshire.

V. How Federal money is spent for these programs in New Hampshire:

Federal money has been spent for buildings, individual and cooperative library purchasing of materials providing interlibrary network as above. A large proportion of New Hampshire population is both financially and culturally deprived, and their educational needs are being met through the development of public, academic, and school library programs together.

CCTV is in its infancy with HEA Title VI assisting many colleges to start programs that need more equipment and ties to become truly effective by providing broadcast facilities to link resources statewide. Federal money so far has started good programs that will wither unless support continues.

VI. Alternatives: Some colleges may be forced out of business, and others will be forced to delay activities, such as open-university programs which rely heavily on all kinds of libraries, that citizens need. It is unlikely that the State Legislature will assume the financial responsibility, and tuition at the public institutions is already the highest in the nation. Standards will drop, and New Hampsihre citizens will be cheated.

Prepared by: Janice Gallinger, College Librian, Plymouth State College, Councilor, American Library Association.

SCHOOLS, LIBRARIES, AND TITLE II, ELEMENTARY AND SECONDARY EDUCATION ACT

Since 1965, both public and private elementary schools have participated extensively in a state program provided by Title II of the Elementary and Secondary Education Act. Under the provisions of a State Plan developed in New Hampshire and approved by the United States Office of Education, New Hampshire's 43 supervisory unions have received funds to assist in the development of school libraries. Under the leadership of the New Hampshire State Department of Education these funds have been allocated on the basis of economic need and need for materials.

Allocation of funds is made to the supervisory union, an intermediate administrative unit. Materials purchased are the property of these supervisory union which, in turn, is responsible for making the library and media materials available to public and private elementary and secondary schools located within. There are approximately 374 public elementary schools, 100 public secondary schools, and 60 private elementary and secondary schools.

Funds allocated to New Hampshire supervisory unions since 1965 are as follows:

Year, regular, and special projects		
1965	318,537	-------
1966	319,487	5,347
1967	293,607	23,675
1968	129,722	17,747
1969	112,866	12,541
1970	226,949	25,217
1971	233,454	41,021
1972	242,621	42,608
Total	1,877,243	168,156

In 1965, about 5% of New Hampshire's public elementary schools were equipped with school libraries or media centers. In 1972, approximately 60% of the public elementary schools are equipped with libraries. Another 10%, due primarily to smallness of size, participated in a shared library service program. Title II funds have stimulated and supported local funds in equipping library and media centers. A state program developed to bring all public elementary schools to a minimum level of standards as related to program, service, facilities, and staff, has also provided impetus to the most effective use of Title II funds. Several major needs remain including lack of complete collections and media materials as well as qualified staff.

At the state level, Title II funds have provided, for the first time, the services of a library consultant. This professional help has been available to assist local school personnel in planning, developing, and equipping school libraries. Modest resources have also been made available to assist in organizing in-service programs for libraries and library aides. In 1972, an instructional media consultant was also added to the staff with the help of Title II funds.

Special project funds from Title II have been made available on an annual basis to stimulate the growth and development of innovative or model elementary school resource centers and programs. Approximately 60 New Hampshire elementary schools have received special project funds to improve the use of media and library materials in the program of instruction. The special project grants have been made in the amounts of $2,000 to $3,000. Some examples include:

1. Multimedia resource centers.
2. Portable media stations.
3. Special collections for the handicapped.
4. Paperback collections to support instruction.
5. Special books for slow readers.
6. Films, tapes, and records.
7. Career orientation materials.
8. Resources for parents and teachers.

This information suggests but a few of the ways in which Title II funds have been effectively utilized in New Hampshire elementary and secondary schools. Over the life of the Title II program, we believe the funds have assisted in providing library and media materials to the public and private schools that serve our 170,000 students.

The elimination of Title II funds would mean not only the reduction of books, materials, and impetus for modernizing outdated library concepts, but also a lessening of the importance of libraries and media resource centers. At the present time, there is one Right-to-Read Center in New Hampshire. We hope others will develop. This stems from a national objective which emphasizes library services, reading and literacy.

The elimination or reduction of Title II funds would seem to present a contradiction to the national and state effort to accomplish a vital objective.

FRANK W. BROWN,
Chief, Division of Instruction.

REFORM OF THE SOCIAL SECURITY PAYROLL TAX

Mr. NELSON. Mr. President, once upon a time there was a country where many wealthy people paid no income tax at all. Yet this mythical country taxed 10 million working people officially classified as poor. This situation was so bad that a high Government official warned about a taxpayer revolt. Bestirring itself, this mythical government made many promises and passed new laws. Things did not improve. They became worse. The effective tax rate on large corporations continued to decline. The effective tax rate on wealthy individuals continued to decline while the tax burden on low- and middle-income individuals increased.

Of course, as must be obvious to all by now, the mythical government is the United States and I have been discussing our income and payroll tax system.

To some extent, a tax is a crime that has been legalized. It is the taking of a person's money which if it was not done by the Government would be forcibly resisted. This is why tax reform is really a moral issue. As Stanley Surrey said—

Tax reform is not just a technical exercise to be engaged in by skilled experts. It is an effort to restore fundamental morality to a tax system by ending both its unfairness and the cynical way the tax game is played today by those with money and knowledgeable advisors.

It is clear that the tax system instead of being an equitable and fair means of raising necessary Federal revenue is, to an unwise extent, a device for granting privileges to the wealthy while penalizing the average American.

I, therefore, will introduce legislation next week making far and fundamental changes in the income and payroll tax system. This legislation, combining tax and payroll reform, will make both taxes sounder and fairer.

American workers with less take-home pay today than last year must find the statement, often repeated in Washington, "that there will be no tax increase this year if Congress controls the budget," singularly insulting. They might conclude, perhaps correctly, that sometimes Washington enacts laws absentmindedly. On October 30, 1972, President Nixon signed Public Law 92–603 drastically increasing the payroll tax—the tax financing the social security system—for most American workers.

On September 11 when this tax was being debated by the Senate, I stated—

Unless Congress comes to its senses, the average American wage-earner will be faced with a monstrous increase in federal taxes. His wages frozen, inflation eating away the

purchasing power of his dollar, the American worker can now expect a demoralizing cut in take home pay . . . Congress must face what is being proposed. Congress can no longer mindlessly approve more and more increases in the payroll tax. . . .

In an attempt to stop further increases in the payroll tax, I offered two tax reform amendments raising necessary funds by closing egregious tax loopholes. Unfortunately these amendments were defeated and today the American worker pays the price in the largest single increase in the history of the payroll tax. Some workers' taxes have increased by 35 percent this year.

Workers making $12,000 will pay $631.80 in payroll tax this year; about $12.15 each week. Next year, their annual payroll tax will be $702; $13.50 each week. In the 4-year period of 1971 to 1974 these workers' payroll tax will have increased by an astronomical 73.1 percent. In the same period, half of the full-time male workers' tax will have increased by 31.5 percent.

Mr. President, I ask unanimous consent that a table prepared by the Congressional Research Service of the Library of Congress showing the dollar and percentage increase in social security taxes from 1971 to 1974 be inserted in the RECORD.

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

SOCIAL SECURITY TAXES, 1971-74, EMPLOYER AND EMPLOYEE (EACH)[1]

Wages	1971 annual tax	1972			1973			1974		
		Annual tax	Increase over 1971		Annual tax	Increase over 1971		Annual tax	Increase over 1971	
			Amount	Percent		Amount	Percent		Amount	Percent
$3,000	$156.00	$156.00			$175.50	$19.50	12.5	$175.50	$19.50	12.5
$5,000	260.00	260.00			292.50	32.50	12.5	292.50	32.50	12.5
Medial annual earnings of full-time male worker[2 3]	347.26	364.62	$17.36	5.0	434.83	87.57	25.2	456.53	109.27	31.5
$9,000[4]	405.60	468.00	62.40	15.4	526.50	120.90	29.8	526.50	120.90	29.8
$10,800[5]	405.60	468.00	62.40	15.4	631.80	226.20	55.8	631.80	226.20	55.8
$12,000[6]	406.50	468.00	62.40	15.4	631.80	226.20	55.8	702.00	296.40	73.1

[1] The social security tax rate was 5.2 percent in 1971 and 1972. For 1973 and 1974, the rate will be 5.85 percent.
[2] In 1971 the tax applied to the first $7,800 of an individual's annual earnings.
[3] As estimated by the Social Security Administration (Office of Program Evaluation and Planning), the median covered earnings of males who work in covered employment in each calendar quarter of the year are: 1971, $6,678; 1972, $7,012; 1973, $7,433; and 1974, $7,804.
[4] The maximum amount taxed in 1972.
[5] The maximum amount taxed in 1973.
[6] The maximum amount taxed in 1974.

Mr. NELSON. Mr. President, tax increases of this magnitude for low- and middle-income workers threaten public acceptance of the entire social security system. Unquestionably, social security is one of the great achievements of the New Deal. Instead of facing destitution and despair, retiring Americans now are guaranteed some economic security. Today, nearly 28½ million people—one out of every seven Americans—receives monthly social security benefits.

Social security keeps about 12¼ million persons out of poverty. Without these benefits, millions of individuals would be forced onto the welfare rolls. Others would be required to depend upon relatives, many of whom would be financially hard pressed to provide economic assistance. And without these payments, the great majority of social security beneficiaries would not even achieve a moderate standard of living.

Social security constitutes the economic mainstay for the vast majority of older Americans. Approximately two-thirds of retired single workers and half of aged couples depend upon social security for more than 50 percent of their income. Social security benefits are almost the sole reliance—over 90 percent of total income—for 32 percent of retired single workers and 14 percent of retired couples.

Also social security is more than a system to pay retirement benefits. To a large extent, it is a program to provide economic security for the family. Some 23.5 percent of the more than 28 million beneficiaries are younger disabled workers and their wives or fatherless children and widowed mothers.

While we may be warmed by the achievements of social security, the task is not complete. More than 3 million elderly Americans still live in poverty. This figure is misleading because nearly 2 million older people are not classified as poor, simply because they live in families with income above the poverty level. Counting these persons, the number of older people living in poverty would be about 5.1 million, or almost one out of every four persons 65 or older.

There must be a drastic infusion of funds to rescue these senior citizens from a life of poverty. Retirement should be a reward, not a punishment. The present method of paying for social security, however, places an intolerable tax burden on the average wage earner. In trying to provide a decent retirement for the elderly, we should not place an indecent tax on the American worker. As Nelson Cruikshank, president of the National Council of Senior Citizens, said—

While speaking for elderly citizens I do not believe they are to be considered a group set apart from the rest of the population in the sense that their needs are to be met at the expense of meeting the needs of others . . . proposals advanced to meet the needs of one (group) must be weighted in terms of their affects on all the others.

The present payroll tax, establishing a flat tax rate of 5.85 percent on earned income up to a fixed ceiling of $10,800 this year and $12,000 next year, is the most regressive tax in the Federal tax system. It makes no allowance for ability to pay, a fundamental principle of modern and equitable taxation. The first dollar earned by the poor man is taxed the same as that of a millionaire. In most cases, a secretary will pay a higher percentage of her income in payroll tax than her boss. A bachelor earning $25,000 and a married couple with five children earning $11,000 pay precisely the same payroll tax, despite the obvious difference in their ability to pay taxes. A family in which both husband and wife earn $8,000 will pay $200 more in payroll tax than a family where only the father earns the same income. Again, there is a major difference in tax burden which has no relationship to differences in ability to pay.

In addition to being regressive and inequitable, the payroll tax has cancelled to a large extent Federal income tax reduction. Congress enacted major reductions in individuals' income tax in 1964, 1969 and 1971. Despite these reductions, increases in payroll tax have caused the tax burden of low- and middle-income Americans to remain almost the same. For example, in 1963, a married worker, with two children and earning $10,000, paid payroll and income tax as equal to 15.45 percent of his income. Today, these taxes amount to 14.90 percent of his income, or a decline of less than 1 percent in his tax burden because of the 236.20 percent increase in payroll taxes. This family would pay more in payroll than income tax until their earnings exceed $7,075.

When the Nixon administration took office in 1969, one of its earliest acts was to provide income tax relief, through the low income allowance, to those living in poverty. This was to alleviate the anachronistic situation of families officially classified as poor paying taxes. By taxing the first dollar earned by the poor, the payroll tax defeats this commendable attempt to relieve their tax burden, creates a discentive for them to work, and seriously hinders their efforts to work their way from poverty. It is an anomoly that $321.75 will be paid in payroll tax on the $5,500 income of a family of six in 1973, even though this family is not required to pay income tax. Mr. President, in order that we may more clearly see the effect of the rising payroll tax on an average size family, I ask unanimous consent to insert in the RECORD at this point, a table showing the tax burden of a family of four with one wage earner at different income levels from 1963 to 1974.

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

INDIVIDUAL INCOME AND OASDHI TAXES FOR A FAMILY OF 4 WITH 1 WAGE EARNER BY INCOME LEVELS UNDER CURRENT LAW

	Income tax	OASDHI	Total	Percent of income
$3,000:				
1963	$60.00	$108.60	$168.60	5.62
1964	60.00	108.60	168.60	5.62
1965	0	108.60	108.60	3.62
1966	0	126.00	126.00	4.20
1967	0	132.00	132.00	4.40
1968	0	132.00	132.00	4.40
1969	0	144.00	144.00	4.80
1970	0	144.00	144.00	4.80
1971	0	156.00	156.00	5.20
1972	0	156.00	156.00	5.20
1973	0	175.50	175.50	5.85
1974	0	175.50	175.50	5.85
$5,000:				
1963	420.00	174.00	594.00	11.88
1964	321.00	174.00	495.00	9.90
1965	306.00	174.00	480.00	9.60
1966	306.00	210.00	516.00	10.32
1967	306.00	220.00	526.00	10.52
1968	333.25	220.00	553.25	11.07
1969	341.00	240.00	581.00	11.62
1970	200.90	240.00	440.90	8.82
1971	181.00	260.00	441.00	8.82
1972	102.00	260.00	362.00	7.24
1973	102.00	292.50	394.50	7.89
1974	102.00	292.50	394.50	7.89
$7,000:				
1963	780.00	174.00	954.00	13.63
1964	662.00	174.00	836.00	11.94
1965	603.00	174.00	777.00	11.10
1966	603.00	277.20	880.20	12.57
1967	603.00	290.00	893.00	12.76
1968	648.00	308.00	956.00	13.66
1969	663.00	336.00	999.00	14.27
1970	530.00	336.00	866.00	12.37
1971	497.00	364.00	861.00	12.30
1972	406.00	364.00	770.00	11.00
1973	406.00	409.50	815.50	11.65
1974	406.00	409.50	815.50	11.65
$10,000:				
1963	1,372.00	174.00	1,546.00	15.46
1964	1,200.00	174.00	1,374.00	13.74
1965	1,114.00	174.00	1,288.00	12.88
1966	1,114.00	277.20	1,391.20	13.91
1967	1,114.00	290.40	1,404.40	14.04
1968	1,198.00	343.20	1,541.20	15.41
1969	1,225.00	374.40	1,599.40	15.99
1970	1,122.00	374.40	1,496.40	14.96
1971	1,000.00	405.60	1,405.60	14.06
1972	905.00	468.00	1,373.00	13.73
1973	905.00	585.00	1,490.00	14.90
1974	905.00	585.00	1,490.00	14.90
$15,000:				
1963	2,616.00	174.00	2,790.00	18.60
1964	2,326.00	174.00	2,500.00	16.67
1965	2,172.00	174.00	2,346.00	15.64
1966	2,172.00	277.20	2,449.20	16.33
1967	2,172.00	290.40	2,462.40	16.42
1968	2,335.00	343.20	2,678.20	17.85
1969	2,389.00	374.40	2,763.40	18.42
1970	2,204.00	374.40	2,578.40	17.19
1971	1,996.00	405.60	2,401.60	16.01
1972	1,820.00	468.00	2,228.00	15.25
1973	1,820.00	631.80	2,451.80	16.35
1974	1,820.00	702.00	2,522.00	16.81
$25,000:				
1963	4,889.00	174.00	5,063.00	20.25
1964	4,369.25	174.00	4,543.00	18.17
1965	4,058.00	174.00	4,232.00	16.93
1966	4,058.00	277.20	4,335.20	17.34
1967	4,058.00	290.40	4,348.40	17.39
1968 [1]	4,362.35	343.20	4,705.55	18.82
1969 [1]	4,463.80	374.40	4,838.20	19.35
1970 [1]	4,102.05	374.40	4,476.45	17.91
1971	3,974.00	405.60	4,379.60	17.52
1972	3,890.00	468.00	4,358.00	17.43
1973	3,890.00	631.80	4,521.80	18.09
1974	3,890.00	702.00	4,592.00	18.36

[1] Includes surcharge on income tax.

Mr. NELSON. Mr. President, the increasing payroll tax places a disportionate and heavy tax burden on low- and middle-income workers and presents ample reason for reforming it.

The inequities of the payroll tax were not serious when this tax was first adopted. The tax was then very small. The tax rate applicable to workers was only 1 percent and the initial $3,000 wage base included all of the earnings of 95 percent of the workers covered. Since then, however, the form of the payroll tax has not changed substantially during a time of vast economic change creating serious inequities. The effective social security tax rate has been raised 11 times in the preceding 12 years.

Mr. President, I ask unanimous consent to insert in the RECORD at this time a table showing the rise in the social security tax from 1937 to 1977.

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

SOCIAL SECURITY WAGE BASE AND MAXIMUM TAX FROM 1937 TO 1977 [1]

	Wage base	Maximum tax of employee	Self-employed maximum tax
1937-49	$3,000	$30.00	[2]
1950	3,000	45.00	[2]
1951-53	3,600	54.00	$81.00
1954	3,600	72.00	108.00
1955-56	4,200	84.00	126.00
1957-58	4,200	94.50	141.75
1959	4,800	120.00	180.00
1960-61	4,800	144.00	216.00
1962	4,800	150.00	225.60
1963-65	4,800	174.00	259.20
1966	6,600	277.20	405.90
1967	6,600	290.40	422.40
1968	7,800	343.20	499.20
1969-70	7,800	374.40	538.20
1971	7,800	405.60	585.00
1972	9,000	468.00	675.00
1973	10,800	631.80	864.00
1974-77	12,000	702.00	960.00

[1] 1975 figures and afterwards exclude any increase resulting from rise in wages.
[2] Not covered by social security.

Mr. NELSON. Mr. President, the payroll tax achieved its present importance in the Federal tax system both recently and quickly from 1949. In that year, money collected by the payroll tax totaled $1,923 billion, while all other moneys collected by the Federal Government totaled $41,576 billion. In 1973 payroll receipts were $54,445 billion while other Federal revenues were $224.984 billion. In this period, therefore, the payroll tax has grown at an annual growth rate of about 17 percent raising its share of Federal revenue from 4 percent to more than 25 percent. According to current forecasts, by 1977 the payroll tax will yield more than $91 billion.

The payroll tax is, in fact, the most rapidly growing Federal tax. Social security taxes are now the second largest source of Federal revenue having passed, in a breeze, corporate taxes in fiscal 1969. This year it will raise $63.9 billion. Indeed, the most striking feature of the Federal tax system over the last 10 years has been the steady drop in the corporate income tax and the precipitous rise in the payroll tax. In the period of 1964–74, the corporate income tax declined from 20.85 percent of Federal revenue to 14.45 percent, while the payroll tax rose from 14.52 percent to 25.76 percent of Federal revenue.

The shift from taxes on corporations to taxes on individuals can be seen in the accompanying table. This gives the percentage of national income raised by different Federal taxes—the personal income tax, the social security tax, the corporate income tax, and sales and excise tax. The comparison is between 1961—before the Kennedy tax cuts—and 1972. The table shows that there is little change between 1961 and 1972 in the share of national income raised by the personal income tax, a significant drop in the corporate tax share, and a large increase in the payroll tax share.

Mr. President, I ask unanimous consent that the table I have been discussing be printed in the RECORD.

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

PERCENT OF NATIONAL [1] INCOME RAISED BY FEDERAL TAXES

[In percent]

	Personal income tax	Social security tax	Corporate income tax	Sales and excise taxes	Total Federal taxes
1961	8.7	3.9	4.6	2.7	20.4
1972	8.6	6.0	3.6	1.8	20.0

[1] National income at full employment.

Mr. NELSON. Mr. President, since the corporate income tax is one of the most progressive taxes, the net effect of these changes is a much more regressive Federal tax system.

The relentless slide to a regressive Federal tax system must be stopped. The social security tax should be changed so that limits on the ability of working Americans to pay will not deprive older Americans of needed increases in benefits. The payroll tax should be reformed, making it more progressive and equitable.

To achieve these ends, I will shortly introduce legislation making far and fundamental reforms in the payroll tax and the income tax. This legislation will make the following changes in the payroll tax:

First. Reduce the present employee payroll tax rate from 5.85 to 5.2 percent.

Second. Allow a deduction equal to the low-income allowance—$1,300—permitted for income tax purposes.

Third. Allow a deduction equal to the personal exemption—$750—permitted for income tax purposes.

Fourth. Phase out dollar for dollar the exemption and low-income allowance for families with income above the value of the exemption and low-income allowance. Families with income up to the exemption and low-income allowance would pay no tax, then the exemption and low-income allowance is phased out dollar for dollar of income.

Fifth. Allow the wage ceiling to remain the same as existing law.

Married couples filing jointly and single individuals would receive personal exemptions, and the full deduction for the low-income allowance; married wage earners filing separately would each be allowed $650 plus exemptions. The self-employed would receive personal exemptions and the low income allowance

under the same rules applicable to employees. Neither the rate reduction nor personal exemptions and low income allowance would apply in the computation of the tax on employers.

The payroll tax would apply, as at present, only to "wages" and "self-employment income" as defined under the social security law. Other types of income would not be taxed. The present law excluding the earnings of Federal Government employees, most of whom are covered by the civil service retirement system and railroad workers, covered under the Railroad Retirement Act, continues unchanged.

Under this bill, all wage earners will pay less payroll taxes than they would under present law. Reductions in the payroll tax will range from 100 to 1 percent. No wage earner whose income is below the poverty level would pay any payroll tax. Under this bill, the payroll tax burden will reflect the varying ability to pay for all low- and middle-income Americans.

All families of four with earnings up to $8,600 would pay less payroll tax in 1973 than they did in 1972. No worker earning $9,000 or less will pay more than his 1972 payroll tax. A married wage earner with two children and earnings of $9,000 would pay $58.50 less than under present law. If this worker earned $11,000, his payroll tax would be $70.20 less than under present law. Since the earnings of husband and wife would be pooled in computing the tax, this plan would also end the discrimination against the two-earner family.

In recent years, Congress has discussed a variety of bills providing financial relief for the working poor. Unfortunately, no such legislation has been enacted. A glaring weakness of the present welfare system is frequently it provides no incentive to work. In many cases, people on welfare are better off than those who are working. The bill to be introduced next week is free of this kind of inequity. It provides substantial relief to millions of poor families who must be working in order to obtain help. This bill assists the poor working man, not the man who refuses to work.

This bill would provide relief to the working poor without establishing a large Federal bureaucracy, complex administrative procedures, or demeaning qualifying rules and regulations. One is automatically eligible if one works and the financial relief is focused on people with low and middle incomes. This bill would aid approximately 10 million poor working families and individuals; 60.1 percent of all four-member poor families could receive some financial assistance under this bill. These families could have as much as $251.55 more in income at the end of each year if this bill is enacted.

Mr. President, I ask unanimous consent to insert in the RECORD at this time, a table that compares the social security tax for a family of four with one wage earner under the present law and under this proposed legislation, and also a table demonstrating the proportion of poor persons who contribute to social security.

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

1972 AND 1973 SOCIAL SECURITY TAXES FOR A FAMILY OF 4 WITH 1 WAGE EARNER, UNDER PRESENT LAW, AND UNDER THE NELSON REFORM PROPOSAL

	Present law			Nelson reform proposal, 1973 [3]	
Wages	1972 [1] tax	1973 [2] tax	Percent change over 1972	Tax	Percent change over present law 1973
$3,000	$156.00	$175.50	+12.5	0	−100.0
$5,000	260.00	292.50	+12.5	$72.80	−75.1
$7,000	364.00	409.50	+12.5	280.80	−31.4
$8,600 [4]	447.20	503.10	+12.5	447.20	−11.1
$9,000	468.00	526.50	+12.5	468.00	−11.1
$11,000	468.00	631.80	+35.0	561.60	−11.1

[1] A tax rate of 5.2 percent applies to annual earnings up to $9,000.
[2] A tax rate of 5.85 percent applies to annual earnings up to $10,800.
[3] A tax rate of 5.2 percent applies to annual earnings computed under the Nelson formula.
[4] For a 1-wage-earner family of 4, the value of the low-income allowance and personal exemptions terminates at this wage level.

POOR FAMILIES AND UNRELATED INDIVIDUALS PAYING SOME OASDHI TAX, CALENDAR YEAR 1970

[In thousands]

Family size	All poor families and unrelated individuals	Poor families and unrelated individuals paying some OASDHI tax	Percent of poor families and unrelated individuals paying some OASDHI tax
Total	10,236	3,963	38.7
1	5,014	1,204	24.0
2	1,950	636	32.6
3	857	460	53.6
4	731	440	60.1
5	574	399	69.5
6	395	273	69.1
7 and over	714	551	77.1

Source: Special tabulation prepared by SSA/ORS from the March 1971 Current Population Survey.

Mr. NELSON. Mr. President, the cost of the proposed bill is about $8 billion a year. Providing a low-income allowance and personal exemptions with the phase-out provisions will cost in the neighborhood of $4 to $4.2 billion, lowering the rate from 5.85 to 5.2 percent costs a little below $3.9 billion. The proposed bill provides that these funds be obtained from general revenue. Next week, I will discuss and introduce legislation making these broad-scaled changes in the payroll tax and reforms in the Federal income tax that will raise about $8 billion in additional Federal revenues.

This legislation combines tax reform and payroll reform making both taxes sounder and fairer. General revenue financing for social security benefits is not without precedent or logic. In the 1880's when the German Government took over voluntary mutual benefit schemes, it became a third party in contributing to a social insurance.

In the United States, general revenues are now being used to finance some aspects of the social security program. For example, the special payments being made to people age 72 and over who have not worked long enough in employment covered under social security to qualify for regular cash benefits are being paid from general revenues. In addition, the cost of providing hospital insurance protection for people who are age 65 and over and who are not eligible for regular social security cash benefits and one-half of the cost of the supplementary medical insurance program are being paid from general revenues.

There has been considerable interest in Congress in providing general revenue contributions for regular social security cash benefits. A most interesting example was the suggestion of the distinguished chairman of the Senate Finance Committee.

In the course of the Senate Finance Committee's consideration of the Social Security Amendments of 1965, Senator RUSSELL B. LONG proposed an amendment which would substitute a single and much broader system of health care aimed at covering catastrophic costs for the two complementary health care plans—parts A and B—contained in the House-passed bill, and in the legislation as it was finally enacted. Two-thirds of the cost of this program would have been paid from payroll taxes and one-third from general revenues. In a press release describing the amendment Senator LONG said:

My plan would also utilize, to a greater extent, general revenue financing. This is in recognition of the fact that workers who will enter the labor force in the future (and their employers) would have to pay at least 40% more in payroll taxes than would be necessary to finance their own costs if the benefits of the presently retired and current workers were paid for wholly under the payroll system. This "social" cost of establishing the system, I believe, is more appropriately borne by federal revenue.

Many of the advisory councils that have been appointed to study the social security program have recommended the use of general revenue financing.

In 1935, the Committee on Economic Security, in explaining its plan for contributory annuities, made the following statements in its report to the President:

The allowance of larger annuities than are warranted by their contributions and the matching contributions of their employers to the workers who are brought into the system at the outset, will involve a cost to the Federal Government which if payments are begun immediately will total approximately $500,000,000 per year. Under the plan suggested, however, no payments will actually be made by the Federal Government until 1965, and will, of course, be greater than they would be if paid as incurred, by the amount of the compound interest on the above sum.

In recommending a Government contribution the 1938 Advisory Council said:

Since the Nation as a whole will materially and socially benefit by such a program, it is highly appropriate that the Federal Government should participate in the financing of the system. With the broadening of the scope of the protection afforded, governmental par-

ticipation in meeting the cost of the program is all the more justified since the existing costs of relief and old-age assistance will be materially affected.

The Advisory Council of 1948 made the following statement in its report:

The Council believes that old-age and survivors insurance should be planned on the assumption that general taxation will eventually share more or less equally with employer and employee contributions in financing future benefit outlays and administrative costs. Under our recommendations, the full rate of benefits will be paid to those who retire during the first two or three decades of operation even though they pay only a fraction of the cost of their benefits. In a social insurance system, it would be inequitable to ask either employers or employees to finance the entire cost of liabilities arising primarily because the act had not been passed earlier than it was. Hence, it is desirable for the Federal Government, as sponsor of the program, to assume at least part of these accrued liabilities based on the prior service of early retirants. A Government contribution would be a recognition of the interest of the Nation as a whole in the welfare of the aged and of widows and children. Such a contribution is particularly appropriate in view of the relief to the general taxpayer which should result from the substitution of social insurance for part of public assistance.

Since 1948, we have added valuable but costly benefits under the system, including disability and medicare hospital benefits, charging the cost to current employers and employees.

The 1971 Advisory Council on Social Security, although it did not recommend the use of general revenue financing for the cash benefits of the social security program, it did recommend their use for the medicare program. In a minority statement included with the Council's report, five members of the 13-member Council recommended that one-third of the cost of the cash benefits program should be paid from general revenues.

In recommending a Government contribution for the medicare program, the 1971 Advisory Council on Social Security stated:

The combined Medicare program should be financed with a general-revenue contribution equal to one-third of total program costs, with such share being lower than one-third at first and gradually increasing over a period of years to the one-third level.

The Council believes that the cost of health insurance protection for workers who pay contributions that are less than the value of their benefit protection, should be met in part by the Nation as a whole through general revenues. If this cost is not met through general revenues, the regular worker and his employer, particularly the higher-paid regular worker, will be paying contributions in excess of the value of his protection in order to subsidize those who do not pay their own way.

If there were no Medicare program, it is likely that the cost to the Government of necessary health care for the aged would be substantially increased, and these increased costs would have to be borne by all income-taxpayers. Since the Nation as a whole benefits from the Medicare program, the saving in general revenues that comes about from having such a program should be used at least in part to finance health insurance protection for those whose contributions do not cover the full cost of their protection.

In a minority statement, appended to the reports of the 1971 Advisory Council on Social Security, five Council members expressed the following views:

There are compelling reasons why a contribution from general revenues should be made to the cash benefits program. In order to make the program fuly effective in its early years, full-rate benefits have been and are being paid to people who were already along in years when their work was first covered under the program. That is to say, workers retiring in the early years of the program, generally speaking, get the same benefits as they would get if the program had been in existence and they had been covered under it throughout all of their working life. Only a small part of the actual cost of the benefits being paid to these older people is met by the conributions they and their employers paid. The remainder is paid out of the contributions of current and future workers and their employers. The cost of paying full-rate benefits to older workers is about one-third of the cost of the program. This means that future workers and their employers will pay contributions which are about 50 percent higher than the benefits payable to these future generations. Thus a substantial part of the contributions to the program goes to meet the cost of getting the program started. If this cost were to be met by a Government contribution, all of the contributions paid by future generations of workers and their employers, would be available to furnish protection for them. The adoption of a financing policy calling for a general revenue contribution equal to the present employers and employee contribution rates—thus meeting one-third of the cost of the program through general revenues—would make possible an improved social security program without increasing payroll contributions. Such a general revenue contribution could finance nearly a 50-percent benefit increase.

It is time to implement more fully a sound principle of contributory social insurance which is widely accepted abroad, which was fully supported by the planners and the earlier advisory councils, and was recognized by Congress from 1944 to 1950. Only in this way, we will be able to insure a decent retirement for elderly Americans without placing an unfair burden on the present working generation of Americans.

Mr. President, I ask unanimous consent to insert in the RECORD at this time further material on this proposal.

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

EXPLANATION OF NELSON PAYROLL TAX REFORM PROPOSAL

PURPOSE

The proposed legislation would make broad-scale improvements in the payroll tax for social security making it fairer and sounder. The present payroll tax, establishing a flat tax rate of 5.85 percent on earned income up to a fixed ceiling of $10,800 this year and $12,000 in 1974, is highly regressive. The regressive nature of the tax is due, in part, to the lack of any deduction for the size of the family. Among wage earners there are frequent major differences in the tax burden which has no relationships to differences in ability to pay.

Because the burden of the payroll tax is focused on the low and middle income worker, recent increases in the payroll tax—at a compound annual growth rate of more than 17 percent since 1949—have largely eliminated the tax relief Congress attempted to extend to these groups in 1964, 1969, and 1971.

PROPOSAL

To provide for a more equitable and progressive payroll tax, the proposed legislation would:

1. Reduce the present employee payroll tax rate from 5.85 to 5.2 percent.

2. Allow a deduction equal to the low income allowance—$1,300—permitted for income tax purposes.

3. Allow a deduction for employees equal to the personal exemptions—$750 per person—permitted for income tax purposes.

4. Families with income up to the exemption and low-income allowance would pay no tax, then the exemption and low-income allowance is phased out dollar for dollar of income.

5. Wage ceiling would remain the same as existing law.

EXPLANATION

The Nelson legislation would allow families to have personal exemptions and low-income allowances identical to those provided in the income tax code minus the difference between earnings and the exemption and low-income allowance, or zero whichever is greater. In other words, the family paying the payroll tax would receive the value of their exemption and low-income allowance provided by the income tax code less the amount by which their earnings exceed this value.

Married couples filing jointly and single individuals would receive personal exemptions, and the full deduction for the low-income allowance, married wage earners filing separately would each be allowed $650 plus exemptions. The self-employed would receive personal exemptions and the low income allowance under the same rules applicable to employees. Neither the rate reduction nor personal exemptions and low income allowance would apply in the computation of the tax on employers.

The payroll tax would apply, as at present, only to "wages" and "self-employment income" as defined under the Social Security law. Other types of income would not be taxed. The present law excluding the earnings of Federal Government employees, most of whom are covered by the Civil Service Retirement System, and railroad workers, covered under the Railroad Retirement Act, continued unchanged.

FORMULA

1. $v^* = v - (\text{earnings} - v)$, or zero, whichever is greater.

2. earnings $- v^*$ = earnings subject to payroll tax.

v^* = value of low income allowance and exemption under the Nelson payroll proposal.

v = value of low income allowance and exemption allowed under the income tax law.

Example

a. A family of four with one wage earner with earnings of $4,300 would pay no payroll tax.

Basic value of low income allowance ($1,300) and personal exemption (4x$750)	$4,300.00
Earnings	4,300.00
Earnings minus basic value ($4,300–$4,300)	0
Adjusted value of low income allowance and exemption ($4,300–0)	4,300.00
Earnings minus adjusted value ($4,300–$4,300)	0
Tax on adjusted earnings (5.2%x 0)	0

B. A family of four with one wage earner with earnings of $6,450 would pay $223.60 in payroll tax.

Basic value of low income allowance ($1,300) and exemption (4x$750)	$4,300.00
Earnings	$6,450.00

Earnings minus basic value ($6,450–$4,300)	$2,150.00
Adjusted value of low income allowance and exemption ($4,300–$2,150)	2,150.00
Earnings minus adjusted value ($6,450–$2,150)	4,300.00
Tax on adjusted earnings (5.2% x $4,300)	223.60

C. A family of four with one wage earner with earnings of $8,600 would pay $447.20.

Basic value of low income allowance ($1,300) and exemptions (4×750)	$4,300.00
Earnings	8,600.00
Earnings minus basic value ($8,600–$4,300)	4,300.00
Adjusted value of low income allowance and exemptions $4,300–$4,300)	0
Earnings minus adjusted value $8,600–0)	8,600.00
Tax on adjusted earnings (5.2% × $8,600)	447.20

Benefits

All covered American workers will pay less payroll taxes than they would pay under present law.

All wage earners whose incomes are below the poverty level as implied by the income tax code would not pay any payroll tax.

The payroll tax burden will reflect the varying ability to pay for all low and middle income Americans.

All families of four with one wage earner with earnings up to $8,600 would pay less payroll tax in 1973 than they did in 1972.

No workers earning $9,000 or less will pay more than his *1972* payroll tax.

All workers earning above $9,000 will pay 11 percent less in payroll taxes than they would pay under present law.

The discrimination against families with more than one wage earner would end since their earnings would be pooled in computing the tax.

The use of exemptions and low income allowance makes the tax much more responsive to real differences in ability to pay. This proposal builds into the payroll tax the principles of equity and progress which are the foundation of any enlightened tax system.

Cost

The proposed legislation will cost $8 billion. Next week, Senator Nelson will introduce legislation making these broad-scaled changes in the payroll tax and reforms in the federal income tax that will raise approximately $8 billion in additional federal revenues. The legislation combining tax and payroll reform would make both taxes sounder and fairer.

General revenue financing for social security benefits is not without precedent or logic. General revenues are now being used to finance some aspects of the Social Security program. Many of the Advisory Councils that have been appointed to study the Social Security program have recommended the use of general revenue financing. The first Advisory Council on Social Security of 1937–38, which recommended the present basic plan stated:

"Since the nation as a whole materially and socially benefits by such a program, it is highly appropriate that the Federal Government should participate in the financing of the system. With the broadening of the scope of the protection afforded, governmental participation in meeting the costs of the program is all the more justified since the existing costs of relief and old-age assistance will be materially affected."

It is time to implement more fully a sound principle of contributory social insurance which is widely accepted abroad, which was fully supported by the planners and the earlier Advisory Councils, and was recognized by Congress from 1944 to 1950.

GEOTHERMAL ENERGY

Mr. BIBLE. Mr. President, this morning's edition of the Wall Street Journal contains a front page description of the growing interest the Nation's energy companies and public utilities are demonstrating in geothermal energy as a potentially invaluable resource for the generation of electric power. According to the article the geothermal reservoir beneath the Imperial Valley of California may alone provide 30 times the power generated by Hoover Dam.

The article is a good up-to-date report on geothermal developments and comes on the heels of the proposed National Energy Research and Development Act of 1973 introduced yesterday by Senator JACKSON and 27 cosponsors including myself. Title V of that legislation proposes the establishment of a Geothermal Energy Development Corporation to marshal the resources of both Government and industry for the harnessing of the Nation's geothermal power.

New technologies are needed to take full advantage of our geothermal resources and this article suggests very strongly that industry is ready, willing, and able to work with the Government to demonstrate the exploitability of the resource and to develop the technology needed to do so.

I ask unanimous consent that the article from the Wall Street Journal of March 20, 1973, entitled "Earth Power" be printed in full in the RECORD.

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

EARTH POWER: STEAM BELOW GROUND SEEN GIVING BIG BOOST TO U.S. ENERGY SUPPLY

(By Earl C. Gottschalk, Jr.)

EL CENTRO, CALIF.—With its year-round growing season and irrigation from the Colorado River, the Imperial Valley of California is one of the richest agricultural areas in the nation. Lettuce, cabbage, sugar beets, alfalfa, and cotton thrive in the warm sunshine on land reclaimed from the desert.

But beneath the fertile soil is a far greater treasure—a vast reservoir of subterranean hot water that geologists say can provide 30 times the power generated by the Hoover Dam.

In a power-hungry nation racked by a shortage of natural gas and oil and worried about the safety of large atomic power plants, the relatively pollution-free geothermal power beneath the Imperial Valley looks like a godsend. Leading oil companies and utilities have stopped asking questions about how much geothermal power will cost and now are intensely engaged in a wildly competitive scramble to find and develop it.

Practically every major oil company, ready to apply drilling skills in a new area, has either acquired geothermal leases in the Imperial Valley, is negotiating for leases or is already drilling for hot water. Two major West Coast utilities, Southern California Edison Co. and San Diego Gas & Electric Co., have teamed with oil companies in the search for and development of geothermal power here. San Diego Gas will begin construction of a $3 million geothermal pilot power plant here in a few weeks; the utility has already budgeted $8 million to $10 million to acquire rights of way for power lines to transport the power 80 miles to San Diego.

BONANZA AHEAD?

Imperial County officials and landowners, seeing a bonanza of industrial development and other riches, couldn't be more delighted. Leasing fees for geothermal lands have shot up to as high as $10 to $15 an acre annually from about $1 an acre annually a few years back. Companies have already promised to locate here when the power is developed.

And what has happened here on private land is certain in a few months to be repeated in known federal geothermal prospects throughout the rest of the western U.S. as the federal government puts these lands up for lease for the first time. The Department of the Interior will lease 59 million acres of potential geothermal land in 14 states, of which about one million acres are pinpointed "prime" because natural steam vents or hot water pools have confirmed the existence of thermal wells there.

"It'll be a new gold rush," predicts one oil company executive. "No one is tipping his hand right now, but all the major companies have already leased private lands and many are drilling in California, Oregon, New Mexico, Arizona, Colorado, Utah and Idaho."

Geothermal energy isn't immediately going to solve the nation's energy shortage, but it may be a significant new source of power for the long run. A National Science Foundation report estimates that by 1985, geothermal resources in the U.S. have the potential of supplying 132 million kilowatts of electricity, and by the year 2000 they could provide 395 million kilowatts. The U.S. currently produces 350 million kilowatts, but it's estimated that power needs double every eight years.

AN OLDTIMER

Electric power now is being produced commercially from geothermal energy in seven countries, including New Zealand, Japan and the Soviet Union. In Italy, steam from a field near Larderello has been generating kilowatts since 1904.

Geothermal resources occur naturally in more than 80 countries in two basic reservoir forms: dry steam and hot water. Dry steam systems produce steam with little or no water, and the steam can merely be directed through turbines to generate electricity. In the more prevalent hot water systems, the hot water must either be pumped to the surface and turned into steam or run through a heat exchanger. The leftover hot water is reinjected into the ground or it can be desalinated and processed for mineral extraction.

In the U.S. there is only one commercial geothermal field now producing power. That is a dry-steam field at the Geysers, 75 miles north of San Francisco in Sonoma County. Here Pacific Gas & Electric Co., Northern California's big utility, has been buying steam since 1960.

A three-way combine of Magma Power Co., Union Oil Co. and Thermal Power Co. has drilled more than 80 steam wells in the mountainous steam field at the Geysers. The Geysers field currently produces 302,000 kilowatts of power. By 1975, Magma Power says, its capacity will exceed 600,000 kilowatts, or enough to supply the power needs of the city of San Francisco.

HUGHES INVOLVED, TOO

Another company active at the Geysers is a relatively new one, Pacific Energy Corp., which has an unusual backer—Hughes Aircraft Corp., the giant electronics firm owned by the Howard Hughes Medical Foundation (of which Mr. Hughes, the billionaire recluse, is sole trustee). Through a wholly owned subsidiary, Hughes Aircraft owns 58% of Pacific Energy's stock and has put about $3.7 million in the company to buy and develop geothermal leases at the Geysers.

Pacific Energy's chairman is John S. Calon, a Natchez, Miss., oil and gas man. Di-

rectors of Pacific Energy include Pat Hyland, general manager of Hughes Aircraft, and Jack Valenti, president of the Motion Picture Association of America and former aide to President Johnson.

Pacific Energy officials say they have a letter of intent from Pacific Gas & Electric to purchase electricity from the steam wells on Pacific Energy's leases, but Pacific Energy won't be seeing any profits until 1975 or 1976. Pacific Energy plans to bid on the federal geothermal land leases offered by the U.S. and is exploring elsewhere for geothermal deposits. To beef up its technical expertise, Pacific lured Robert Rex, a University of California geologist who is the leading expert on the Imperial Valley geothermal resources, to take a year's leave of absence to be vice president for exploration.

Signal Oil & Gas Co. is also negotiating with Pacific Gas & Electric to sell electricity from leaseholds at the Geysers.

But although the Geysers is the only field now producing electricity, the vast hot water deposits beneath the Imperial Valley are a far greater geothermal resource. Even though intense private activity has begun here, it's at the Mexican end of the valley that power is nearest to being produced.

The Mexican government is ready any day now to start up a 75,000-kilowatt geothermal generating station at Cerro Prieto, about 30 miles across the border from Calexico, Calif. Cerro Prieto is an extinct volcano; the molten rock lying beneath the surface around its base heats ground water that can be extracted, changed to steam and run through turbines.

At a recent United Nations conference, however, Mexican authorities conceded their plant won't be totally pollution-free. In addition to steam and water from the deep wells at Cerro Prieto, the Mexicans said there will be a discharge of sulfuric gas that could cause air pollution if prevailing winds fail.

DWINDLING ENTHUSIASM

People have long known that there were hot waters beneath the Imperial Valley because of hot mineral springs bubbing to the surface in many areas. There was drilling in the area as early as 1920, but the valley's recent history of geothermal exploration began in the early 1950s when Allen T. Van Huisen, drilling for oil, instead hit 500-degree hot water at 5,000 feet. Immediately, a land rush occurred, with companies like Standard Oil of California, Shell, Pure and Morton International leasing land.

The oil companies' enthusiasm dwindled, however, in the mid-to-late 1960s when they discovered that the hot waters were much saltier than they had expected and the brine corroded their pipes and turbine engine blades. Geothermal hopes were abandoned in the Imperial Valley.

But when the Mexicans found hot water that was only about as salty as sea water, interest began anew. Other wells in the Imperial Valley disclosed less-salty water. And by the early 1970s utilities like Southern California Edison and San Diego Gas & Electric found themselves in a bind. Antipollution forces were halting construction of their big power plants, and the utilities were so desperate for power they began to search for any new source. Shortages and rising prices of natural gas and oil and worries about the safety of atomic plants suddenly made geothermal power seem the most feasible new energy source.

The oil companies and utilities decided it now was worth their while to explore and develop the Imperial Valley. So the land rush has started all over again.

DRAFTY ROOMS, NO RECEPTIONISTS

The man who probably holds the key to development of the Imperial Valley's geothermal potential is the same man who developed the Geysers—a genial 76-year-old veteran of the geothermal business named Burton C. McCabe. Mr. McCabe operates Magma Power Co. out of an office in one of the oldest homes still standing in downtown Los Angeles—a Charles Addams-type house in which the company has several rooms on the second floor. The drafty rooms, with a few desks and filing cabinets, are a sharp contrast with the skyscraper offices of the giant oil companies and utilities that are Mr. McCabe's competitors and collaborators. There is no receptionist or battery of secretaries acting as buffers at Magma Power; you just walk in.

But appearances can be deceiving, and as Mr. McCabe likes to say, "Economic necessity makes strange bedfellows." San Diego Gas & Electric Co. is impressed enough with Mr. McCabe to put up $3 million to build a pilot plant in the Imperial Valley based on his Magamax closed-circuit process for extracting the heat from geothermal hot water to make electricity. The plant is expected to be completed by August, and if it works as San Diego Gas expects it to, geothermal development will receive a tremendous boost.

A San Diego Gas subsidiary has already given Magma $700,000 for drilling expenses on Magma Power's acreage in the Imperial Valley and has promised more. Magma holds 17,000 acres of leases in key spots in the valley. Magma also has geothermal leases elsewhere in California, Nevada and Oregon.

Standard Oil of California also has large acreage in the Imperial Valley, but the company is operating in secrecy and won't disclose how much acreage it has or how much it's spending on geothermal research and development. "We have considerable holdings," says Bob Greider, head of Standard's geothermal group. "We've acquired leases and drilled shallow and deep geothermal wells. We don't know if we have a commercial well or not."

THREE-WAY COMBINE

Another powerful combine with large holdings in the Imperial Valley is a three-way link-up of Southern California Edison Co., Southern Pacific Land Co. and Phillips Petroleum Co. The combine's first project is to see if it can produce electricity from the 30,000-acre Buttes geothermal field in the Imperial Valley. Southern Pacific Land is interested in the minerals in the hot water. The three partners also plan to explore for geothermal power in other areas of the U.S. including Southern Pacific holdings in Nevada and Utah.

Southern California Edison's subsidiary, Mono Power, is also linked up with Getty Oil Co. in a joint venture to drill for geothermal power in five western states.

Union Oil Co. of California is heavily involved in geothermal power—more so than any of the other major oil companies—with a 50% interest in steam-producing wells at the Geysers, geothermal wells in the Philippines, extensive holdings in the Imperial Valley and leases in New Mexico and Nevada. First reports of drilling in the Philippines are "encouraging," Union says.

Many problems remain to be solved before the promise of geothermal energy comes to pass in the Imperial Valley and the rest of the U.S. Although San Diego Gas is building a closed-system pilot plant to transfer the energy of hot water into electricity, no such plant is in operation now. Without a closed-system plant, the noise and fumes of other gases from the changing of water into steam cause a pollution problem.

There is also the problem of subsidence. The earth sinks when water is pumped out, so the water must be reinjected. At last one expert, Prof. Paul T. Grose of the Colorado School of Mines, thinks that reinjecting water into the earth might cause earthquakes.

Practically all geothermal experts disagree with this thesis. Kyushu Electric Power Co. in Japan reported no seismic activity from reinjection of water despite careful observation during four years in earthquake sensitive Japan. The U.S. Bureau of Reclamation will install a network of earthquake observation points in the Imperial Valley to monitor the seismic effect of geothermal drilling.

THE PROBLEM CREATED BY FPC REGULATION OF THE PRICE OF NATURAL GAS

Mr. TOWER. Mr. President, on the editorial page of the March 19 issue of the Washington Post there appeared a perceptive, objective view of the problem created by Federal Power Commission regulation of the price of natural gas. I have long maintained that regulation was the cause of gas shortages. By making the production of natural gas less profitable, the FPC, as the article points out, will in the long run drastically increase the costs of energy to the northeastern consumer. My bill, S. 371, to deregulate the price of natural gas at the wellhead, might result in some increased gas prices, but not nearly as much as the price of the synthetically produced gas or the imported gas being used to head off shortages. Even if the price of domestically produced natural gas were to double, it would still be less than half the price of synthetic or imported gas. I commend the Washington Post article to my colleagues, and respectfully request unanimous consent that it be printed at this point in the RECORD.

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

COCKPIT POINT AND THE PRICE OF GAS

The economics of natural gas has gone badly askew in this country. The latest illustration is the Washington Gas Light Company's plan to generate synthetic gas at Cockpit Point on the Potomac River. The company is, involuntarily, demonstrating that the federal government's misguided efforts to hold down the price of gas is going to cost the residential consumer a lot of money.

In deference to an obsolete view of the consumers' interest, the Federal Power Commission holds the price of natural gas low. But the FPC has jurisdiction only over gas that crosses state lines. As a result, producers are currently selling nearly all of their new production in the state of origin in order to avoid the FPC regulations. The principal states of origin are, of course, Texas, Louisiana and several of their neighbors, where gas is burned in great quantities as industrial boiler fuel because it is cheaper than the lowest grade of oil.

Washington Gas Light gets its gas from the pipelines that carry it here from the southwest. A year ago one of the lines cut back on its deliveries. That was the point at which Washington Gas Light announced that it could accept no new customers. Now another line has warned the company to expect a further cut next year. In response, quite properly, Washington Gas Light has drawn up a proposal to protect itself and its customers by making synthetic gas at Cockpit Point from naphtha.

The numbers are illuminating. The average cost of natural gas at the well runs about 20 cents per thousand cubic feet. The pipelines sell it to Washington Gas Light for 55 cents a thousand cubic feet. The Cockpit Point plant will produce the synthetic gas at $1.50 a thousand cubic feet. Because the FPC holds the price of natural gas too low, there is a shortage, and because there is a shortage, we must buy a synthetic substitute that costs three times as much. Who is saving money for whom?

The immediate effect of the synthetic gas on the customers' bills will be small. The plant is to produce only about 8 per cent of the company's requirements. Since most of the final retail price is in the distribution system, the average householder's bill will go up only about 3 per cent, the company says. But the pattern is obvious. As the older wells run out in the southwest, under present regulations the eastern cities like Washington must rely increasingly on expensive synthetics.

The solution is to deregulate the price of natural gas at the well. No one can forecast accurately how high the price might go if the regulation were lifted. Most specialists guess that it would go up to a level somewhere between twice and three times its present price—which is to say, between 40 and 60 cents a thousand cubic feet. Adding the cost of transporting that gas to Washington, the price would still be less than a dollar. It would still be one-third less than that of the synthetic gas produced at Cockpit Point.

Despite this strange and costly disparity, Washington Gas Light is undoubtedly well advised to proceed with the synthetic gas plant. While the deregulation of gas prices is now manifestly desirable, the legislation to accomplish it cannot be enacted quickly or easily. The public mistrust of the industry is strong and the need for safeguards is clear. The prospect now is for a prolonged period of debate and uncertainty. It the meantime the customers of Washington Gas Light will discover that, when artifically low prices create shortages, the remedy is remarkably expensive.

BRITAIN'S WHITE PAPER FOR NORTHERN IRELAND

Mr. KENNEDY. Mr. President, from the official summary I have seen, the white paper for Northern Ireland, announced today, is a small but constructive forward step in Britain's policy toward Ulster, and I welcome it as such.

But the proposals themselves are still far more shadow than substance. The new Northern Ireland assembly, based on proportional representation, is a hopeful beginning, but it cannot be allowed to become the high water mark of British policy. Almost all of the details of shared legislative and executive power in Northern Ireland are left for future resolution, including the status and powers of the Council of Ireland, on whose reality the hopes and dreams of the minority so much depend.

At least, however, a new foundation has been laid, and men of good will on both sides can now begin to build their future. If Britain and the people of Ulster use the opportunity to create a future of peace and even-handed justice in Northern Ireland, then the promise of the white paper will be met, and the legitimate aspirations of both sides, will be fulfilled.

Mr. President, I ask unanimous consent that the summary of the white paper may be printed in the RECORD.

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

BRITAIN'S WHITE PAPER—A SUMMARY

The White Paper on the future of Northern Ireland is being published today (20 March). It is entitled "Northern Ireland Constitutional Proposals", and is in six parts.

2. Part 1 "The Search for Consensus" takes as its starting point paragraph 79 of the discussion paper of October 1972, and reviews developments since its publication (entry into EEC of both Britain and the Irish Republic, the new anti-terrorist legislation in the republic, HMG's acceptance in principle of the Diplock report and the border poll.).

3. Part 2 "Conditions for a Settlement" sets out the basic conditions for a settlement, and outlines the obligations incumbent on citizens of Northern Ireland (and thus of the United Kingdom as a whole), whatever their views may be on the question of Irish unity. It sets out the background to the constitutional proposals—education, economic and social problems and the "urgent and compelling" problem of violence.

4. The essence of the White Paper is in part 3 "The Constitutional Proposals" which contains the framework for new constitutional arrangements. This envisages a New Northern Ireland Assembly of about 80 members elected by the single transferable vote system of proportional representation applied to the 12 Westminister constituencies. It provides that a comprehensive new constitutional bill for the Government of Northern Ireland will be presented to Parliament to replace the arrangements temporarily set aside by direct rule. There will be no increase in the present representation of Northern Ireland at Westminster. It envisages that the new arrangements will come into force in three stages, which are:

(I) Election of the new assembly;

(II) Development by the assembly of its own rules and procedures (see also para. 8 below);

(III) Discussions between representatives of the parties elected to the assembly and the Secretary of State on the method of choosing an executive.

5. The White Paper at this point states—and this is the heart of the matter—that it is HMG's view that the executive itself can no longer be solely based on any single party, if that party draws its support and its elected representation virtually entirely from only one section of a divided community.

6. When the Secretary of State is satisfied that the three stages have been completed as he would wish, appropriate powers (see para 9 below) will be devolved on the new assembly and executive.

THE EXECUTIVE

7. Members of the executive will be the political heads of departments who will also be the chairmen of the relevant assembly committees (see para 8 below). There will also be a central secretariat whose political head will lead the assembly and preside over the executive, but he will not have the status of prime minister, nor will the executive amount to a cabinet.

COMMITTEES

8. The functional committees formed from the assembly will have a membership reflecting the balance of parties in the assembly. Members of each committee will be brought into fullest consultation before any new law or policy relevant to their department's work is proposed to the assembly, and provision will be made for a "pre-legislation" stage to enable the committee to consider detailed proposals before presentation to the assembly as a whole.

LEGISLATIVE POWERS

9. The scheme for the legislative powers of the assembly will provide for "excepted matters" on which the assembly may not legislate in any circumstances (e.g. foreign affairs and the armed forces—matters which have always been outside the competence of the Northern Ireland Parliament), "reserved" matters, on which the assembly may not normally legislate, although in exceptional circumstances it will be possible for the United Kingdom Government to permit it to do so (e.g. matters within the field of law and order) and "transferred" matters on which the assembly will have unrestricted competence to legislate (e.g. employment, education, housing and regional development).

10. The assembly will be debarred from legislating in a manner which discriminates against anybody on political or religious grounds. Should it do so, or trespass upon "reserved" or "excepted" matters, there is an additional safeguard in that no legislative measure passed by the assembly will have the force of law unless it has received the approval of the Queen in council on the recommendation of the Secretary of State, which may be withheld.

OATH OF ALLEGIANCE

11. Members of the executive will be required to take some form of undertaking on assuming office but no oath of allegiance will be required from members of the assembly or from persons assuming any other office in central or local government.

THE SECRETARY OF STATE

12. There will continue to be a Secretary of State for Northern Ireland who will consult with the elected representatives to discuss devolution of powers, and thereafter (in addition to the watchdog role described in para 10) exercise direct ministerial responsibility for certain reserved matters which touch on Northern Irland, and at the same time represent Northern Ireland's interests in the United Kingdom cabinet.

SPECIAL POWERS ACT

13. The Special Powers Act will be repealed. It will be replaced by legislation to give effect to the recommendations of the Diplock Commission and to re-enact those regulations made under the special powers act which are still found necessary to deal with violence and subversion. This legislation will apply only to Northern Ireland and will be operative only for the period of such emergency and to the extent necessary to deal with it. There will also be legislation to provide financial arrangements so that Northern Ireland may accomplish, as rapidly as possible, once violence has ended, the task of physical reconstruction and rehabilitation created by the disorders of recent years, to create a sound base for the economy and to help Northern Ireland achieve those standards of living, employment and social conditions which prevail in Great Britain.

14. Part 4 "A Charter of Human Rights" summarises the various measures which have been taken and other steps which have been recommended and are under consideration to protect the rights of the individual.

15. Part 5 "Relations With the Republic of Ireland" provides that following elections to the Northern Ireland Assembly, HMG will invite the Government of the Irish Republic and leaders of the elected representatives of Northern Ireland to take part with them in a conference to discuss the three objectives set out in the chapter of the discussion paper entitled "The Irish Dimension". These are the formal acceptance of the present status of Northern Ireland, without prejudice to the possibility of subsequent change in that status if there is agreement to this by the people of Northern Ireland, effective consultation and co-operation in Ireland for the benefit of North and South alike, and the provision of a firm basis for concerted governmental control and community action against terrorism. These objectives (and most conveniently the second) could be achieved by the creation of a Council of Ireland which could involve HMG at Westminster if it is to deal with matters outside the competence of the new Northern Ireland executive.

16. Summing up, part 6 "Summary and Conclusion" of the White Paper states that:

"Under the proposed settlement, Northern Ireland will continue to have a greater degree of self-government than any other part of the United Kingdom. . . ."

"To all those who support the continued union with Great Britain, the proposals offer firm assurances that this union will endure and be defended, for as long as that is the wish of a majority of the people of Northern Ireland. . . ."

"To all those who seek the unification of Ireland by consent, but are genuinely prepared to work for the welfare of Northern Ireland, the proposals offer the opportunity to play no less a part in the life and public affairs of Northern Ireland than is open to their fellow-citizens. . . ."

"To all, whatever their religion or their political beliefs, the proposals extend effective protection against any arbitrary or discriminatory use of power".

THE NEED FOR REFORM OF THE FEDERAL ANTIPOVERTY EFFORT

Mr. TOWER. Mr. President, a recent news report revealing additional misuse of public funds by a so-called antipoverty agency gives further evidence of the wisdom which the administration is now exercising in its efforts to reform the Federal antipoverty effort. This case, like so many others, involves funds disbursed by the Office of Economic Opportunity and used to benefit not the poor people for whom they were intended, but rather an assortment of lawyers, bankers, and investors who managed to position themselves in the circuitous route along which so much antipoverty money has been permitted to flow.

I call the attention of my colleagues and of the taxpayers to an article appearing in last Wednesday's Washington Post which details this latest bizarre episode in OEO's peculiar history. The facts are not completely clear; the full story has not yet been revealed. The best that can be charitably said at this point is that the confusion which surrounds the case accurately reflects the ineptness which has characterized the use of Federal antipoverty money. A less charitable observation would be that it reflects once again how well-intentioned but ill-conceived Federal programs to help the poor have led only to corruption and demoralization.

During the past decade, the Federal Government sought to correct many inequities in American society through a vast range of programs involving massive expenditures of the taxpayer's money. Today, we are still paying the price, and the inequities remain. It is encouraging to find that past champions of these efforts are beginning to recognize that good intentions and noble goals are not enough—that the mere creation of more bureaus and agencies does not insure success. Hopefully, this recognition will be translated into responsible votes when these programs came up for renewal.

Hopefully, we will resist the temptation to engage in more loose rhetoric about the plight of the poor while we authorize and appropriate antipoverty funds only a small fraction of which will ever trickle down to the benefit of America's poor people. Hopefully, we have learned something from the experiment of the last decade and we will not be afraid to terminate or drastically modify those programs which have fallen so short of their goals. The time has come to stop piling Federal program upon Federal program, layer upon layer in the Washington bureaucracy.

Mr. President, I ask unanimous consent that the article to which I referred be included at this point in the RECORD.

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

ANTIPOVERTY GROUP LENT MONEY TO COMPANY ITS OFFICERS HEADED

(By Timothy S. Robinson)

Most of a $225,000 fund set up in 1971 with federal antipoverty money to aid minority businesses here has been lent to an organization whose officers are the same men charged with administering the fund, according to federal sources.

The Brookland Fund was approved by the United Planning Organization (UPO), which dispenses antipoverty money here, as a way to use money that would have had to be returned to the U.S. Office of Economic Opportunity if UPO had not found a use for it.

At least one member of the UPO board of trustees has claimed that UPO Director Jeanus B. Parks Jr. has not informed the board about the fund, or to whom it has lent money.

The board member, Carl A. Eklund, said at a board meeting last night that Parks had rejected previous requests for information concerning the fund. Parks denied Eklund's accusation, and the board went into executive session to discuss the fund and Eklund's charges.

Parks could not be reached for comment on the fund earlier yesterday, and other UPO officials have not responded to questions about it.

Last night, Parks charged at the open board meeting that The Washington Post had treated UPO unfairly in the past and had emphasized negative aspects of the agency's programs. "I have more important things to do now than responding to reporters' inquiries," Parks said in referring to agency attempts to find other funds to replace the more than $7 million in OEO money it is losing.

However, sources confirmed the existence of the Brookland Fund, and said that the FBI has been investigating it for several weeks.

Assistant U.S. Attorney Lester B. Seidel of the fraud unit, who has prosecuted cases dealing with poverty fund misuse here in the past year, said he was aware of a complaint about the fund, but would make no further comment.

An OEO spokesman in Washington said yesterday that the agency's inspections branch also was aware of the Brookland Fund and has investigated it, but that it did not see any ethical violations or improper conduct in the fund's administration.

The Brookland Fund was incorporated in D.C. on Sept. 29, 1971, as a nonprofit organization. According to its incorporation papers, the fund's primary objective was to benefit the metropolitan Washington area through increased employment, payroll, and business volume by assisting financial partnerships and associations of all kinds.

Members of its board of directors were listed as James W. Cobb, an attorney; William B. Fitzgerald, president of the Independence Federal Savings and Loan here; Howard C. Davis, a dentist and investor; LeCount R. Davis, a financial consultant; Lonnie Sanders, a former Washington Redskin back and now associated with a mortgage banking firm here, and William Simpson, owner of Billy Simpson's restaurant on Georgia Avenue NW.

At last night's board meeting, Parks indicated there were three additional board members representing UPO on the Brookland Fund. However, those members are not listed in the incorporation papers.

Brookland Enterprises, according to city records, was incorporated May 25, 1967, as a profit-making diversified investing firm. Its last annual report, filed Feb. 16, 1972, lists Cobb and Fitzgerald as the only directors, Simpson as president, Sanders as vice president, Howard Davis as secretary and LeCount Davis as treasurer.

Federal sources also said that the fund was kept in Independence Federal Savings and Loan for a time. Howard Davis is vice president of that bank, and Cobb is a member of its board of directors. Fitzgerald said yesterday that "less than $1,000" of the fund remained in his financial institution and that he did not know how much money was in other banks.

While exact figures were not available from federal agencies, banks or UPO, sources said most of the original $225,000 had been channeled directly to Brookland Enterprises, Inc.

Brookland Enterprises signed a lease in December, 1970, for the construction of a $2 million waterfront restaurant in the Southwest urban renewal area. The restaurant would be a three-story building on the Washington Channel across from Jefferson Junior High School, and is expected to seat 725 persons.

When asked about the two organizations, Brookland Fund and Brookland Enterprises, yesterday, Sanders and Simpson referred questions to LeCount Davis. Fitzgerald said Davis was in the hospital, and referred calls to Cobb, whose office said he could not be reached yesterday. Fitzgerald also said Parks at UPO would have the full details on the Brookland Fund operation.

After several attempts by Washington Post reporters to get information about the fund from UPO over the past month, Post attorneys wrote the UPO legal office on March 1 to formally request that the documents relating to use of public funds be released. The letter also asked several specific questions about the UPO organization in general and the Brookland Fund in particular.

Assistant UPO general counsel Samuel Sharp, to whom the letter was addressed, said in a telephone interview Friday that he had received the letter. "The general counsel's time is limited, (and) we've been working long hours through the weekend," Sharp said, adding he had not had time to respond to the questions yet.

An OEO spokesman in the agency's Philadelphia regional office said the fund was approved as a "revolving" fund. It would supply money to new projects and businesses, and the money would be returned to the fund if the new projects succeeded, according to the spokesman.

THE HIGH SCHOOL FOR HEALTH PROFESSIONS

Mr. TOWER. Mr. President, the March 12 issue of the American Medical News contained an article on the High School for Health Professions in Houston, Tex.

The High School for Health Professions is an innovative and experimental program which has been received with overwhelming enthusiasm by the students, their parents, and the faculty. It is being conducted by the Houston Independent School District and the Baylor College of Medicine to train high school students for careers in the health fields. Medicine is mixed with the traditional high school curriculum.

In view of our Nation's need to attract dedicated and capable students into the health professions, I commend this effort. I have some reservations in regard to the tendency to encourage students to specialize at such an early age; however, the article reveals that the faculty is aware

of this tendency and is seeking to promote a well-rounded curriculum.

Mr. President, in order that my colleagues may review this interesting concept, I ask unanimous consent that the full text of the article be printed at this point in the RECORD.

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

PRE-MED TAUGHT IN HIGH SCHOOL

Ludi Jiminez, age 16, is a typical teenage student attending a most untypical high school.

She and 44 other sophomores in Houston, Tex., are being trained for careers in the health field under an experimental program co-sponsored by the Baylor College of Medicine.

The school, conducted in the classrooms and laboratories at Baylor, has proven a big hit with the students, their parents, and the faculty.

Medicine is mixed with the traditional high school curriculum. Thus, in the study of Shakespeare, the students might also discuss the health of the characters; in mathematics, they might probe medical cost problems; and in a foreign language, they might learn medical terminology.

Outside the classroom—in the laboratories, hospitals, and business offices—the students see how health professionals work and what is expected of them on particular assignments.

Miss Jiminez and her 44 classmates, all selected at random from the six regions comprising the Houston Independent School District, enrolled at Baylor last October, and, according to plans, will graduate in the summer of 1975. A second class of sophomores will enroll next fall.

The current class represents a cross-section of the school district. Selected from 300 applicants, the class includes 24 females and 21 males, and has 23 Anglos, seven Mexican-Americans, and 15 blacks. All applicants must have an interest in health, have a "C" average or better, and be at the sophomore level.

Classroom scheduling is somewhat different than the normal high school.

Efforts are made to hold the traditional courses in the morning, with afternoons set aside for lab work and teaching patient-care techniques.

There are no bells to signal the end of one class period and the beginning of the next and the teenage students do miss out on some of the usual extracurricular activities.

But, they don't seem to mind.

Ludi, who wants to be a pediatrician, said the Baylor program is showing her first-hand the life of a physician and other health workers. "I'm glad they started something like this," she told AMN. "The school is going to be a real success."

Mark Littlejohn, age 16, misses gym the most (facilities are not yet ready), but has taken up jogging instead. Noting that he always wanted to become a surgeon, Mark said he is not sure now, "because they are showing us so many different health opportunities."

Similarly, Serena Johnson, who wanted to enter hematology, has broadened her horizons through the school and is considering other career choices.

Kay Ann Reed, who wants to be a nurse, misses her old school friends and her role in student council the most, but said these losses are offset by "having the opportunity to see everything under a real setting. This is not TV stuff. It's the real thing. . . . I hope more kids have the chance I have."

Alice Patten, 15, also misses her school buddies and sometimes finds "the college kids here so much older." But Alice, who wants to become a general practitioner, "likes everything else about the school. . . ."

The "older kids," the Baylor medical students, have readily accepted their new classmates.

Two representative medical students, Dan Davis (fourth year) and Bob Parke (third year), praised the program.

Davis cited the range of choices the program opens up. "I think the way it is planned," he said, "it will enable the student to get out of the educational rat race whenever he wants to, because it's not just aimed at creating more doctors, but at training more people for allied health areas."

Parke was concerned that the program might "steal childhood from these kids." He warned that, "It's got to provide them with all of the real high school experiences. It can't ignore the personal aspects. I'd hate to see it create a bunch of teenage superspecialists."

However, he added that, "We need some changes in American education, and if this program can help these kids, then, fine, it's justifying its existence."

Joseph M. Merrill, MD, BCM executive vice president, stressed that, "This is no prep school for medicine. Of course, we want to recruit the best we can for the health professions and we think we do pretty well at this.

"The purpose of this school is to be a high school—to represent a cross-section of the school district. But if the school can develop a meaningful experience to life and if the students can gain this in a medical environment, then I think the program will have its worth."

The thrust of the school, said Robert E. Roush Jr., director of the college's Center for Allied Health Manpower Development, is "career education, not vocational education. We are trying to establish a career education model that will provide a student with a marketability that he can build on—either through further education or on the job. If we don't graduate these kids with a marketable skill, then our program has failed and they may as well have gone to a regular high school."

Integrating medicine into a normal high school curriculum is the task of a team headed by Perry Weston, principal of the high school, and Matthew W. Noall, PhD, associate professor of biochemistry at the college and coordinator for the biological sciences for the Center for Allied Health Manpower Development.

Weston, who doubles as a teacher of mathematics, has a staff or four full-time instructors and three part-time or hourly teachers. All but two have science backgrounds, and provide a medical perspective for the regular high school classes.

On the medical side of the program, current plans call for students in their first year to explore the various areas and ramifications of medicine; in the second year to select several areas for concentrated study; and in the third year to become even more selective, by concentrating in one or two areas of special interest.

According to Dr. Noell, there are three points to remember about this school. First, it is not a prep or vocational school but something in between. Second, the school is working from within the medical profession. And, third, it is not trying to displace any of the professional programs within the medical profession, but is supporting and trying to create further opportunities within the context of the medical framework.

"I believe," said Dr. Noall, "that we need something different from the general high school education of the past. We need to provide the students with more options. Frankly, I believe career-oriented high school programs are the wave of the future."

Weston noted that the program is a voluntary one, and that if a student decides "this is not for him, he can get out and return to his regular high school setting. But if he continues to the end, he can graduate with the normal academic requirements and enter college, or if he'd rather work, utilize those skills he has learned here."

Carlos Vallbona, MD, chairman of BCM's Dept. of Community Medicine, said the program "illustrates Baylor's effort to extend beyond the ivory tower and get to the health problems of the community."

Hebbel E. Hoff, MD, chairman of Baylor's Dept. of Physiology, added that the school provides "a mixture of the practical and theoretical, so that a student can get a true view rather than a hypothetical view of the whole medical scene."

Dr. Hoff said the program should be able to create career opportunities for the students: "There should be no dead ends here," he said. "We need to train these students to be able to do things as the issues arise. In a controlled environment, a person can choose what he wants to do. In medicine, the individual must act immediately as each issue arises. So book learning isn't the whole of it; experience means much."

Lewis A. Leavitt, MD, chairman of the Dept. of Physical Medicine, said the school offers a "logical way to have a student early in his educational process correlate his training toward a career."

In the opinion of Dr. Leavitt, "We need to get a student at an early level and through identifying and counseling direct him into a role where he can and should be productive. And, we need to look at the broader educational level. Most people think of medical education as producing doctors, dentists, pharmacists, and nurses. It's much broader than that. Students need to learn the whole spectrum of health care."

That's exactly the intent of the High School for Health Professions, said Roush. "We want the students to see everything and everybody in the health care field so that they can make a more rational career choice and judge for themselves the route they want to follow."

Like anything new and experimental, there are, as Dr. Noall puts it, "One or two thorns in this bed of roses." Weston added, "We are identifying the problems and have rectified some, while solutions to others will take a while."

Perhaps the biggest hurdle is finding classroom space. Currently, the classes are held in one or two rooms at the college. Next year, when the second class is admitted, plans are to use three portable classroom units to help ease the space load.

The long-range goal is a new building for the high school, but since that takes money, that creates another problem. Besides construction funds, money will have to be raised to hire additional faculty members and pay for increasing administrative expenses.

Baylor officials estimate current first-year operations will mount to $100,000. Baylor is assuming $35,000 of this total, with the Texas Education Agency of the HISD handling the balance.

The HISD also will pay for the installation of the portable units, but funds for construction of a new building apparently will have to come from private sources. As Roush puts it, "Public bond issues are hard to pass and federal funding for this is almost nonexistent."

But if the school is to grow as planned to 650 to 700 students, the new structure will be a must. Roush points out, "We can't limit the number for very long. We're under pressure now to increase the enrollment. Everybody seems to want to be in this."

Dr. Vallbona saw another possible problem for the high school: "The possibility of polarizing these kids into science and medicine. I would like to see the school preserve a humanistic education (in literature, the arts, etc.). I don't believe the two approaches are incompatible."

And Dr. Hoff warned, "If this school is

treated totally as a vocational thing, it won't attract the better students. And what will happen if the school ends up like this is that it will start parceling the students out into little places where they fit."

Roush cited another problem, but one "so unique that every other school administration wishes it had it. That is," he said, "to sustain the enthusiasm of the students. Usually, the problem in most school districts is to generate student enthusiasm."

The enthusiasm of the students seems reflected in the parents and the general Houston populace. As Weston puts it, "The response has been so good and overwhelming it sometimes frightens us. People say that this can't fail—that it must succeed."

A parent of one of the high school students, in a letter to Michael E. DeBakey, MD, president of BCM, wrote in part:

"My son is a student there and absolutely loves it. He leaves home at 6:30 in the morning to catch a bus and returns in the evening at 6—and his interest and enthusiasm are so great that I have to make him quit studying at night and go to bed. There is hardly a day that goes by that he does not have some interesting happening to share with his father and I. His only worry is that something will happen to make the school close. . . .

"The other parents I talked to at a recent PTA meeting were of the same opinion as myself and we all feel that your foresight in giving our children this wonderful opportunity will pay dividends in the future to our society."

Ludi's parents say their daughter "just loves the school," adding, "We hope the program will grow so that more children will have the same opportunity."

Dr. DeBakey, who conducted informal summer sessions for high school students in recent years, said he is certain the current, broader program will succeed. "We feel," he said, "it will prove to be an effective program and if it is, it will be developed in other metropolitan areas."

Roush said there are three other programs in the United States that "might come close to ours" and adds that hardly a day goes by "without someone writing to us asking for information about our program and indicating a desire to start one of their own."

The three programs Roush cited include one in Los Angeles where high school students attend regular classes in the morning and are trained in local hospitals in the afternoon; a vocational educational after-school training program for Baltimore 12th graders supported by Johns Hopkins; and a medical technical institute working with Boston U. where 125 black, ghetto-area children are trained by black professionals in a program designed to carry from the third grade through the MD degree.

Dr. Hoff likens the Baylor program to a "yeast rising into dough where you can get to the top." His theory is to "catch them young. It's an advantage. Many people don't know what they're good for and wait too long, and, later, it costs too much to find out. On the other hand, if they had had an opportunity at an early age to lay a good foundation they then might be able to make a proper career choice."

Dr. Merrill concluded, "The only limitations to a program such as ours are where opportunities in the field no longer exist. And, as far as we can project, there will be more career opportunities of an ever more challenging nature in the health sciences."

SENATOR JENNINGS RANDOLPH ADDRESSES NATIONAL ENERGY FORUM 2

Mr. ROBERT C. BYRD. Mr. President, as a Senator from a coal-producing State, over the years, I have become increasingly concerned for the future of the coal industry. Historically, the Appalachian region has served as a critical link in our domestic capability to meet rising energy demands.

On many occasions, however, the short-term economic benefits derived by the coal-producing States have not fully reflected the long-term social and environmental costs accompanying these economic activities. Witness the scarred hillsides and polluted rivers as a consequence, for example.

In other words, although the coal-producing regions receive some economic benefits, the principal benefits from economic growth are derived by the consuming regions. The producing States have been called upon to accept many of the social and environmental costs, in the interests of overall national concerns.

As was pointed out Monday night by my West Virginia colleague, Senator RANDOLPH, in a banquet address to National Energy Forum 2, relationship between the energy supply regions and the consuming areas has changed. Our country is now in the situation that an increased reliance on imported oil and gas is inevitable. Unlike the past, as my colleague so aptly pointed out, it is no longer a matter of national interests versus State interests, but, rather, the national interests of foreign oil producing countries; principally OPEC—Organization of Petroleum Exporting Countries—States who have a monopoly on 75 percent of the known free world oil reserves. And these supplies are going to be developed consistent with the long-term national priorities of those producing countries.

Our principal alternative supplies must, therefore, rely on domestic resources—and our old standby, coal, is the key.

For many years, Senator RANDOLPH and I have stressed the neglect that coal has been subjected to in Federal energy programs and priorities. As a nation, we now find ourselves in the situation that coal is the essential ingredient for stable future energy supplies. Our country's technological capability must now after many years of neglect be marshaled to commercially demonstrate coal gasification, coal liquefaction, including solvent refined coal, and other environmentally acceptable means for the use of coal.

These points and several others were enunciated by our distinguished colleague from West Virginia, in his March 19, address at the Statler-Hilton Hotel last night. I ask unanimous consent that it be printed in the RECORD.

The PRESIDING OFFICER. Without objection it is so ordered.

REMARKS BY SENATOR JENNINGS RANDOLPH

BIPARTISAN ACTION IS NEEDED TODAY TO ASSURE ENERGY'S FUTURE

It is gratifying to me to participate in these proceedings of National Energy Forum 2. Your theme, "Action Today for Energy Tomorrow", is pertinent. You have been concentrating appropriately and helpfully on the identification of options which hopefully could avert serious energy shortages.

This Forum also serves as preliminary preparation for the World Energy Conference next year. And rightly so.

I believe you will agree with me that too much talk and too little action in recent years have compounded the serious energy problems we now face. Government has failed to act in a timely manner. In turn, industry often has not undertaken long-term planning and has not cooperated sufficiently with such Federal policies as those established in environmental law. And, unfortunately all parties seem not to have taken the steps to advance technology as fast or as effectively as was anticipated.

In formulating and evaluating actions to assure sufficient energy to meet our national goals, we must exercise judgment and foresight. Reasonable and equitable relationships must also be maintained with the foreign producing countries and we must develop realistic roles for oil and gas imports in our energy system.

But our overriding consideration and effort must be to make our country vastly more energy self-sufficient. Failing to do this, we can expect to experience an overwhelming energy crisis; in relying on imports, we also may be creating a disasterous security problem for the United States of America.

You, and the governments and industries you represent, are alert to the economic implications of faltering energy supplies and, equally, you are aware of the need to achieve realism in our country's balancing of energy and environmental concerns. Doubtless, there are those among you who believe that the prevailing environmental uptightness will pass with time. I doubt if it will be soon. For it is not a matter of passing; rather, it is a matter of learning how to incorporate environmental and social concerns into management decisions by government and industry, alike.

Do not make the mistake of looking for an environmental scapegoat for our energy crisis. Environmental concerns are significant parts of the problem, but the crisis is a complex one. Hastily adopted environmental policies have expanded the problem and have made it even more complex. But the actions and inactions which have precipitated our energy dilemma were not all environmentally motivated. Perhaps the most significant factor contributing to the problem has been unrealistically low-prices for energy supplies, principally natural gas. I refer to prices which do not reflect the replacement costs of these non-renewable resources.

And I speak also of recent Price Commission rulings which did not allow energy producers the means to reflect increased costs associated with meeting environmental policies and increased wages. The Coal Mine Health and Safety Act also has added costs to coal production which should be taken into account in price management and price controls.

As difficult as it is to accept, we must give cognizance to the fact that the achievement of reliable and abundant energy supplies will bring about higher costs to producers and higher prices for consumers to pay.

THE CHALLENGE AHEAD

The consumption of energy is closely tied to a country's standard of living. As quality of life rises, so does the demand for energy. In the United States, for example, we consume more energy than the combined usage by Russia, Germany, Japan and Great Britain. They all aspire to our standard of living as do the producing countries themselves. Meanwhile, England is urging the Common Market countries to shape a unified energy policy in order to assure their fair share of limited oil supplies from Africa and the Middle East.

Russia, by policy objective, is the only industrialized nation that is self-sufficient in energy supplies. Meanwhile, the United States is embarked on a misdirected road toward cut-throat competition with Europe and Japan over limited supplies. I fear that an additional consequence will be severely strained relations with many of our former

allies—and this is an added cost we cannot afford.

Consequently, as I have emphasized on frequent occasions, there is need for a National Fuels and Energy Policy which would recognize integral role that energy would perform in our economic future and in that of most other countries. Such a policy also is essential to our national quest for environmental quality. We must NOT have a situation where it is energy VERSUS environment. It must be energy AND environment.

Obviously, we can improve our domestic fossil fuel situation. The resource base is present to meet our energy needs until the time when more exotic energy sources, such as the nuclear breeder reactor or the fusion nuclear reactor or solar energy are developed to relieve our excessive dependence on foreign energy sources.

NEED FOR A NATIONAL ENERGY POLICY

The knowledge and understanding now exists to establish Federal and corporation policies which recognize the joint responsibility of industry and government to assure adequate energy supplies to meet national goals. In recent months, considerable national attention has been devoted to these issues. United States Senate concern now resides principally in The National Fuels and Energy Policy Study centered in the Committee on Interior and Insular Affairs, under the authority of Senate Resolution 45, which I cosponsored two years ago with Chairman Jackson of that Committee. We have high hopes that this Study will provide the foundation for comprehensive national fuels and energy policies.

On January 16, 1973, in Senate remarks, I enunciated 26 proposals for consideration in the development of a National Fuels and Energy Policy. The actions I proposed were not new; what was new was the attempt I made to provide a framework for evaluation of their relative merits as essential elements of national policy. My statement reflects that there are no simple, elementary solutions; to the contrary, the contributing factors are very complex and the solutions will be all the more so because they must be arrived at by men—with all their human weakness and all their wisdom—working in a spirit of compromise and concession.

Today, however, a prime difficulty appears to be too many leaders motivated by a desire to preempt the spotlight and to be credited with the "savior" role. Consequently, too little effort is being made to discuss and develop, in a spirit of compromise, a consensus on the various elements of a National Fuels and Energy Policy. Until this happens, the real development of such a policy will not occur.

As each day passes, conditions grow more unstable. This situation, I am sure, is recognized, even at the White House, where staff responsibility for energy is passed around quickly, like the hottest of hot potatoes. I am reminded of the words of Petronius Arbiter in 210 B.C. when, according to history, he said:

"We trained hard . . . but it seemed that every time we were beginning to form up into teams we would be reorganized. I was to learn later in life that we tend to meet any new situation by reorganizing; and a wonderful method it can be for creating the illusion of progress while producing confusion, inefficiency and demoralization."

Understandably, the dollar crisis has forced revision of the President's already-overdue energy message but there must be a cut-off date to stop delaying. We must begin taking positive actions. Both the President and the Congress must "bite the bullet" and the end result must soon be workable short-term fuels policies which will provide the foundation for a long-term National Energy Policy. We must adopt vigorous policies so necessary to the encouragement of a rebirth of America's domestic energy resources. Definite government actions are needed to replace our current drift toward almost total dependence on foreign energy supplies. The attendant cash flows for overseas petroleum will add to our country's staggering balance-of-payment problems and may cause further devaluation the dollar.

Our country's future dictates that solutions be formulated in the public bodies provided for by our Constitution. The Congress is responsible—and accountable—for the formulation of our country's priorities and programs. And the Executive must implement and administer them.

Almost three years ago the Nixon Administration was offered the opportunity to participate as a co-equal partner with the Congress in the formulation of a National Fuels and Energy Policy. I proposed a Commission which would have been composed of Executive Branch, Legislative Branch, and public members. It would have had the mission to jointly develop the foundation, if not the details, of a National Fuels and Energy Policy.

The President opposed legislation I offered to create such a Commission. I continue to believe the Administration made its biggest energy crisis mistake by its negative reaction. What, of necessity, should have been a bi-partisan effort has now become embroiled in the current Constitutional struggle between the Executive and Legislative branches. This is unfortunate—but it is happening.

This is a critical time in our Nation's history when coordinated actions are needed. Government, industry, and environmentalists seem to be too much embroiled in the midst of disputes over various aspects of existing law and much of the energy and/or the environmental legislation now pending before the Congress. We can do better and we *must* do better.

PRIORITIES OF OIL PRODUCING COUNTRIES

When speaking of national priorities for energy, however, we must also concern ourselves with the national aspirations of the oil producing countries. Their economic future rests predominantly on their development of non-renewable energy resources.

Yes, American society stands as a symbol of success to virtually every other nation. Our ability as a people, and as a Nation, to provide and sustain material prosperity is a goal actively sought by the world's developing nations. Our unparalleled prosperity was achieved, notwithstanding an unprecedented dependence on energy. Somehow, we managed to keep supplies adequate to meet energy demands. But this, unfortunately, is changing.

The Middle East oil-producing countries aspire to achieve our standard for their people. Their principal asset for realization of this objective is oil. Yet, as Saudi Arabia's Oil Minister, Shaykh Yomini, has pointed out, the producing countries are about to enter an era when their income revenues are in excess of what they can spend inside their own countries. Consequently, from the standpoint of their nationalism, they are being forced to reconsider the value of holding cash revenues, and realizing only interest on them, as compared with the future escalated value of oil left in the ground. With the periodic devaluation of the dollar that has taken place, this reassessment by the oil-producing countries is inevitable. It can be expected to lead to their adoption of production programs which insure that revenues are collected consistent with their national aspirations.

We need but look to Canada, our neighbor to the north, to understand the real importance of this situation. On February 16, 1973, Canada announced that it is curbing petroleum exports to the United States to protect its domestic supplies. This action is consistent with Canada's previous policy of exporting only excess crude oil supplies to the United States. Recent U.S. demands threaten their domestic energy supplies, particularly the use of crude oil for the production of gasoline and heating oil. In other words, although the United States is prepared to pay the going price, Canada does not find it in their national interest to increase our supplies.

A similar situation would exist in the Middle East should oil be worth more in the ground than dollars in the bank.

As the era of scarce energy dawns, the oil exporting countries will hold the trump cards. The producing countries can be expected to develop their non-renewable energy resources to reflect their long-term national priorities, rather than the priorities of the consuming countries. Such policies will harm the interest of the consuming countries, and of the oil companies, unless alternative domestic supplies are developed.

Yet, as the Vietnam conflict draws to a close, the remaining outstanding area of turmoil is the Middle East, where stability would assure a reliable flow of essential oil to the American economy. But that is an unstable area and I believe it is incumbent on the United States to accelerate efforts toward peace in the Middle East from whence we plan to import more and more petroleum products.

Some of the Nation's academic economists have suggested that a cut-off of middle eastern oil to the United States will not happen despite specific Arab threats to the contrary. They also have argued that Middle East oil is and will be cheaper than domestic oil. But last week it was higher priced, for the first time. And, our energy conservationists have argued that we should not "drain America dry". Many of them assert that we should buy as much foreign oil as we can.

As usual, realism is needed. The OPEC countries have a 75 percent monopoly on the known "Free World's" oil reserves and they have billions of dollars of excess capital. It also is estimated that by 1983 the OPEC countries will have acquired a 51 percent equity ownership of the operations of international oil companies in their territories.

While United States oil companies need United States Government support in their dealings with these oil producing countries, the greatest need is for a coherent energy resource strategy for our country for the next decade. The United States must undertake diplomatic approaches on our Nation's behalf, not just on behalf of the oil companies. Our government must insure stable supplies to meet our future energy requirements.

At home, we must develop alternative supplies to increase our flexibility in dealing with the oil exporting countries. This will involve costly, and unpopular, domestic decisions and the possibility of curbing domestic consumption. But, in recognizing the national interest of foreign suppliers, we will also help to guarantee that the United States has access to these important energy resources, especially from the Persian Gulf.

Our greatest challenge, however, may very well be our willingness to come to grips with the fact that never before, in the history of mankind, have so many wealthy, industrialized, and militarily powerful countries been at the potential mercy of the small, independent, and potentially unstable states. Yet, for the foreseeable future, these countries will provide the bulk of the fuel for Western Man.

Few of our traditional policies can accommodate this difficult situation in an era of intense nationalism. Never before has the need for new and imaginative foreign policies been more keen, and never before has the interdependence of the rich and poor, the small and large, and the weak and powerful

states been so great. Consequently, we must take all possible steps to minimize our future dependence on these energy resources by the development of alternatives—at home.

ALTERNATIVE DOMESTIC SUPPLIES

It is generally recognized that our long-term national energy policy must stress increased reliance on domestic energy resources. However, energy is but a small part of the larger issue of people and their life-style, with all its ramifications: Land use, highways, mass transit, national security, economic growth, and mobility. Perhaps going along with these considerations are the location of future populations and our practical ability to extract, transport, and use energy resources in the quantities envisioned. For example, where are the tankers going to come from to meet projected imports?

For several years, I have been in the vanguard of the too few Members of the Congress urging more emphasis on the development of technologies to make coal a cleaner-burning fuel through better control of sulphur oxides emissions and more rapid development of gasification and liquification of coal.

To quote a recent Smithsonian article, "coal is cheap, hated, abundant, filthy and needed." However, there is a long list of energy projects that could be pursued by industry or government—or both as partners—to insure the viability of domestic energy supplies. Many of these could have been developed into commercial realities if industry had accepted the challenge, and if the Federal Government had been more alert and helpful. A "crash" program is now needed to achieve self-sufficiency, and at the top of the list are coal based technologies, such as the gasification of coal to supplement dwindling natural gas supplies, the development of low-Btu synthetic gas from coal for cleaner generation of electricity, the development of MHD processes for making power, the development of stack gas cleaning technologies for sulphur oxides, and the development of oil from coal.

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.

With coal and oil shale generally recognized as the principal domestic alternatives to petroleum imports, it is obvious that action, not rhetoric, is needed now to insure the future and essential role that these domestic resources can serve in our energy economy.

FEDERAL ENERGY RESEARCH CORPORATION

To spearhead this research effort, Senator Jackson, Senator Magnuson, and I introduced legislation today to create an Energy Research Corporation which would manage a $20 billion Federal program over the next 10 years, with the objective of domestic self-sufficiency.

Such a crash program would, of course, require massive cooperation from the private sector with the greatest expertise. Yet, most of the companies which 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 and developments. The result in the past has been unacceptable delays or even failures, and this situation must be corrected.

Admittedly, the past and present Federal funding on fossil fuel energy research has been even worse than inadequate. It has been tragically poor. For over 20 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 increased exploration for domestic oil and gas resources to carry the whole burden for possible success, even at higher prices. And, realistic domestic prices for petroleum products are obviously needed.

Above all, we have to be realistic about the value and price of natural gas relative to the competing price for other fuels. It seems to be a certainty that consumer demand for gas cannot be met except at a higher cost.

Therefore, we are faced with relaxing FPC controls on the price of gas. For some people this will be expensive—it will cost money. The alternatives, however, will either be no gas for some consumers or more expensive alternative fuels or even more expensive imported liquified gas.

The projected reliance on imported oil to fill short-falls in domestic supplies would be wrong if not so necessary under existing conditions. A more realistic policy for the 1980's and 1990's is to rely on coal gasification, coal liquefaction and derivatives of oil shale, as well as solar energy, to fill in this gap.

Many nations of the world have no choice but that of relying on imported energy. However, the United States, like Russia, has the potential for self-sufficiency if we are prepared to pay for it in dollars and some inconveniences—until more environmentally compatible energy technologies can be perfected.

A BALANCE BETWEEN ENERGY AND ENVIRONMENT

Without question, we have not done well in finding a suitable or equitable balance between energy and the environment, and I emphasize, "energy AND the environment." Rather, it seems that we have adopted a posture of environment VERSUS energy, to the very substantial disadvantage of domestic energy sources.

The answers, of course, are to be found, in part, in the administration of the oil import program and, in part, in the form of the Environmental Protection Agency's implementing guidelines and regulations for the Federal Clean Air Act as well as the resultant State standards. There also is a general lack of a definitive Federal policy for surface mine reclamation where we have problem areas, too.

From newspaper reports, I was encouraged to believe that the President's Environmental Message would recognize in some degree—hopefully, a substantial degree—the impact from implementation of many Federal environmental policies. For these policies have carried numerous of our country's energy problems to the rim overlooking the valley of chaos.

I endorse the statutory policy that protection of public health should not be subordinated to economic feasibility. And I would not want in any way to jeopardize the long-term success of Federal environmental policies. But it is obvious to me that short-term environmental concerns have dominated EPA's implementation of the Clean Air Act so dramatically that our country's energy requirements cannot be met until unrealistic environmental constraints are slowed down to reasonable time schedules.

After long deliberation in 1967, and again in 1970, the Congress enacted a Federal air pollution control policy that distinguishes between concerns for public health and concerns for welfare and rejected the concept of national emission standards. Yet, as so frequently has occurred in recent years, the Administration ignored the flexibility for implementation contained in the 1970 Clean Air Amendments and encouraged the States to adopt, in effect, national emission standards which bear no relationship to ambient air quality standards.

What appears to have happened is that the cumulative effect of the provisions of law, the regulations, the enforcement, and court decisions has moved us beyond the ability of known technology to keep pace. And, I was discouraged last month when the President's environmental message provided little recognition of this practical reality.

When both the 1967 and 1970 Clean Air Amendments were under consideration in the Senate Public Works Committee and in the Senate, I warned that this situation might develop with damaging consequences, not only for energy, but, also, for the success of environmental policies. Repeatedly, I offered amendments to increase authorizations for research and development. Most of my amendments were accepted and are now in the law, but the Executive Branch consistently has done too little toward the financing of this research on energy-related environmental control technologies and often has not come near to the utilization of appropriated funds.

The electric utility industry, until recent months, also did little to respond to statutorially mandated environmental policies. Long-time advocates of dilution and dispersion of air pollution emissions by tall stacks, rather than environmental controls, the electric utilities by their attitude pose very real problems.

So, the consequence is a badly out-of-balance condition of such proportions that our domestic coal industry—and the people involved in and depending on it—are in a tenuous position.

AUTOMOBILE

Any discussion of the energy crisis would not be complete without at least mention of the taxi and the passenger car, especially as it relates to the consumption of gasoline. For transportation consumes 25 percent of the Nation's total energy supplies.

We are familiar with reports of the decreased automobile performance associated with the particular air pollution control methods being employed. While this is true, the automobile industry has, in part, found a scapegoat for its own failures.

There is no secret about the fact that a lighter and smaller car consumes less fuel than its heavier, high-powered counterpart. It is also a matter of record that diesel engines are more efficient in fuel consumption than gasoline engines of the same size. But the development of the automobile in this country has not followed the pattern of either small size or diesel power and the reasons are clear—their motivation was profits rather than conservation of energy. However, conservation must have more consideration henceforth.

From 1960 to 1968, before the current air pollution standards came into being—and by industry design—the efficiency of operation of automobiles decreased almost 3 percent. This was due to such factors as increased weight, allegedly poor aerodynamic designs, more factory-installed air conditioning, and V–8 engines.

I also find it difficult to understand how our major automobile companies—General Motors, Ford, and Chrysler—keep complaining about the impossibility of the 1975 Federal automobile emission standards, while the Mercedes diesel and two small Japanese companies—Honda and Mazda—already have met the 1975 standards with long-known, but non-traditional, engine technologies. In addition, the National Academy of Sciences, in response to a Congressionally mandated study, concluded last month that four types of systems are available to meet the 1975 standards. Seemingly the auto manufacturers keep right on disagreeing with all excepting themselves.

What must be questioned are corporate policies that insist on using the traditional internal combustion engine and policies that have, according to the NAS, lead to the in-

stallation of the less effective—but more expensive—exhaust control systems. Has there really been adequate investigation of the other alternatives? Our country's quest for environmental quality is a joint, societal venture, which must not be allowed to be exploited for short-term economic gains.

EPILOG

Some people express the exaggerated opinion that we are at the point of breakdown, of disintegration, of finality. Others claim we are on the verge of a giant, creative leap forward into a new flourishing of man's spirit and the injection of new vigor into man's institutions. I subscribe in some degree—but only slightly—to both of these views. I believe that we are at a turning point, a fork in the long road of our destiny.

We have reached a point where we need each other in a cooperative way as never before. Certainly the tasks faced by government and industry, alike, are large.

America has yet to develop a perfect system, but we have come closer than most of the older nations on earth. As we near the third century of our Nation's success, it is time to turn our full attention and resources to the proper evaluation of our creation.

The struggle to keep our forefathers' concept of a prosperous people living in freedom has not been easy and in the years ahead the task will be even harder.

The challengeg is there—the question is one of acceptance and a solid commitment to meet our energy needs on schedule while, at the same time, meeting environmental responsibilities. We can do both if the approachment to solutions is reasonable and not fanatical. And, if you, and the interests you represent, counsel with the Congress *as well as* the Executive Branch, for both bodies are coordinate branches of the United States government.

WOUNDED KNEE—ANOTHER SIDE OF THE STORY

Mr. GRIFFIN. Mr. President, many Americans have been puzzled as well as concerned by what has been happening at Wounded Knee, S. Dak.

Judged by much of what we have been reading in the newspapers and seeing on television, it would be assumed that a group of Indians are making a valiant stand at Wounded Knee, with meager resources, for rights long denied them.

But, as it often turns out, there is another side of the story. According to the Detroit News, the leaders at Wounded Knee are hardly representative of American Indians. Furthermore, it will come as a surprise to many to learn that the occupation at Wounded Knee has been largely financed by Federal grants.

Mr. President, I ask that an article which appeared in the Detroit Sunday News of March 18, 1973, be printed in the RECORD.

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

HOW GOVERNMENT GRANTS TO INDIANS FINANCED WOUNDED KNEE TAKEOVER

(By John E. Peterson)

MINNEAPOLIS.—The Indian occupation of Wounded Knee, S.D., has been financed almost exclusively by federal money.

The Indians who took over the small reservation town have depicted themselves as an oppressed minority group seeking to focus national attention on a long list of grievances.

In point of fact, however, their actions appear to be the latest act in a play staged by a handful of militants and paid for by public money.

A two-week investigation by The Detroit News—starting in Washington and culminating in Minnesota—has unearthed these facts:

More than half of the 258 American Indian Movement (AIM) members and sympathizers holding Wounded Knee (as of Saturday) are employes of social welfare agencies financed primarily by federal grants.

AIM, far from being repressed by the government, has been granted directly and indirectly more than $400,000 in federal funds since its founding in 1968. The bulk of that money, federal investigators say, has been used in efforts to radicalize the American Indian—not improve his lot. AIM leaders, federal investigations reveal, spent huge amounts of federal funds to stage the takeover of the Bureau of Indian Affairs last fall and the current confrontation at Wounded Knee.

The leaders of AIM, almost to a man, had lengthy histories of convictions for such crimes as burglary, strong-arm robberies and assaults long before they organized the militant organization.

Less than 20 of the Indians now at Wounded Knee are Oglala Sioux, the tribe on whose reservation the confrontation is taking place, government investigators say. And the duly elected Oglala Sioux tribal council—by 14–2 votes—repeatedly has asked the federal government to evict the AIM group from its reservation.

"When AIM took over Wounded Knee three weeks ago (Feb. 27), the Justice Department was all set to move in and make arrests," a highly placed federal official said last week.

"But then AIM leaders threatened to call a press conference and disclose exactly how much financing they've had from the federal government in recent months. That's when the Justice Department backed off and tried to play for a standoff, hoping AIM would tire and leave of its own volition.

"What's happened is that AIM leaders have just dusted off and updated the old black militant tactic of intimidating government officials until they come through with grants," he said. "And so far, it's worked like a charm."

AIM, which began as an off-shoot of a Minneapolis anti-poverty program in 1968, was especially successful in procuring federal grants during the last year.

Last June 21, for instance, government files show that AIM received a $113,000 grant from the Office of Economic Opportunity (OEO).

Of that amount, $60,000 was for "survival" schools in Minneapolis, St. Paul and Milwaukee to "instill American Indian culture" in Indian children of grade school age. The other $53,000 was for an Indian community center in Milwaukee.

Early last fall, OEO investigators were dispatched to probe numerous complaints about the "survival" schools from local education officials in all three cities.

What was found was "an almost total absence of any academic standards" and "a sustained effort to brainwash the students into hating all non-Indian Americans, black as well as white," investigator said.

AIM leaders, the report noted, refused to provide any audit information on how the $113,000 had been spent.

AIM leaders also received $66,000 in "transportation" money from the OEO as inducement to leave the Bureau of Indian Affairs (BIA), which their followers had systematically vandalized and pillaged during a six-day take-over last fall.

"That was about six times the amount required to buy them all bus tickets back home," said an OEO official who vehemently disagreed with the decision at the time. "They were just handed the money in cash and no accounting was required."

An OEO grant for an additional $67,000—approved before the BIA take-over—was ordered frozen in a Minneapolis bank before AIM leaders arrived from Washington.

But AIM leaders Clyde Bellecourt and Dennis J. Banks, both Chippewas, used the announcement of the grant's approval to persuade the Upper Midwest American Indian Center (UMAIC) in Minneapolis to lend them nearly $30,000.

"We loaned them the money only because they offered the $27,000 grant as collateral, and we assumed they had it in their pockets." said Mrs. Emily Peake, UMAIC's director, a Chippewa and a spokeswoman for most of the 22,000 American Indians living in the Twin Cities area.

"Of all the money AIM has conned out of federal government. I'd be surprised if even a minute fraction ever trickled down to our people who really need it," she said.

"When they first started AIM, Clyde and Dennis were going around making statements about how it was going to be the Indian's Black Panthers," she said. "They've done a pretty good job in that respect, anyway."

Another person who agrees with Mrs. Peake's assessment is Richard Wilson, head of the Oglala Sioux tribal council and one of the main targets of AIM's wrath.

Wilson said AIM has made a half dozen threats on my life since I began speaking out against their extreme tactics.

Their lawlessness and violence give the rest of us (American Indians) a bad name. If the television boys would bother to look up their prison records, they wouldn't come in here glorifying them like they have.

"Banks and Bellecourt bear about as much resemblance to Sitting Bull as Al Capone did to George Washington," he added.

Bill Cuny, an Oglala Sioux who teaches elementary school in Rapid City, echoes Wilson:

"The Bellecourt brothers, Russell Means and Banks are urban Indians, bandits with braids. They can't speak for reservation Indians." The criminal records of AIM's national leaders, curiously, have been ignored by both the local and national press in recent months although they are a matter of public record in Minnesota's Hennepin County District Court.

Banks, Clyde Bellecourt and his brother, Vernon, all have served sentences in Minnesota penitentiaries for a variety of felony offenses, including burglary, aggravated assault and armed robbery.

A Minneapolis police official said Banks, 35, has been convicted 15 times on charges including assault and battery and burglary.

Clyde Bellecourt, 36, the official said, has an arrest record dating back to age 11. He was found guilty of armed robbery in 1954 and was sentenced to serve two to 15 years in prison. After parole, he was convicted of burglary in 1958, sentenced to five years in prison, paroled again and then was convicted of burglary once more in 1960 and paroled in 1964.

Banks is national field director of AIM and lives in Minneapolis, Clyde Bellecourt, also from Minneapolis, is executive director of the local chapter, one of the largest with more than 100 members. His brother, Vernon, also with a police record, is national co-director of AIM and also runs the Denver chapter.

AIM currently claims a membership of about 4,500 in 67 chapters in the United States and two in Canada.

Banks and Clyde Bellecourt had managed to stay out of trouble for several years when they joined the staff of the Citizen's Community Centers (CCC's) a Minneapolis anti-poverty program in 1967.

Although Banks and Bellecourt claim to

be co-founders of AIM, people close to the group, said the real impetus was provided by Douglas Hall, an attorney and former board chairman of the CCC's, and Matthew Eubanks, self-proclaimed leader of the Minnesota Black Panthers and one-time CCC executive director.

Hall and Eubanks were cited by OEO investigators as having stacked the CCC's board illegally in order to force out William White, a moderate black man as director and replace him with Eubanks in December, 1968.

The CCC's received about $400,000 a year in OEO money over a seven-year period. OEO investigators have never been able to determine how much actually went into services for Minneapolis' poor because no accurate bookkeeping was done.

But local government officials say CCC's services to the poor stopped completely in January, 1968, when Eubanks replaced White as executive director.

"Eubanks got his position by packing a board meeting with local Panthers—some of them armed—and forcing the board, which included former Mayor Arthur Naftalin, to remain in session until they fired White," said Mrs. Peake.

Eubanks' own version of what happened agrees with Mrs. Peake's, and a number of other informed sources say that story is correct.

A reporter for the Minneapolis Tribune who covered the CCC's meeting in those days, however, said he wasn't sure what happened "because they locked the press out. I do know that no one came out of the meeting until 5:30 the next morning," he said.

Whatever, Eubanks promptly shifted the focus of the CCC's from helping the poor to "politicizing" black students in elementary and high schools in the city's one small ghetto area.

CCC's staff members were cited for disrupting classes on so many occasions that the city's school board finally sought a restraining order against Eubanks.

Eubanks then organized a campaign, as he put it at the time, to "harass the police at every turn, break down their police-community relations program and make them targets of hate in the black community."

It was at about that time that Eubanks and Douglas Hall decided to organize a militant Indian group within the CCC's structure and chose Dennis Banks and Clyde Bellecourt to head it.

Eubanks unwittingly named the new group the Concerned Indian Americans, a name that was abandoned after several weeks when Hall returned from an out-of-town trip and pointed out that the group's acronym, CIA, might be confused with "the hated Central Intelligence Agency and turn off a lot of people."

Banks and Clyde Bellecourt then changed the name to the American Indian Movement and hired a six-member staff to begin recruiting with OEO money that had been earmarked for a Head Start program for preschool Indian children.

OEO began phasing out Minneapolis antipoverty program as early as 1970 because of its dissatisfaction with the lack of accountability, misappropriation of funds and the bad press militants like Eubanks, Hall and the AIM leaders were getting.

"There was a colossal amount of waste in most of the big city anti-poverty programs," an OEO official said last week, "but Minneapolis is probably the ultimate example.

"Here in one of the most affluent cities in the United States the federal government squandered nearly $25 million in seven years," he said.

"Only one-ninth of the Minneapolis population whose income places them below the poverty cut-off is black or Indian," he said.

"Yet 90 percent of that money was earmarked for services for minority citizens and eight-years later we end up with 25 percent more minority poor than when we started the program."

Despite the phasing out of the antipoverty program, OEO, the Department of Health, Education and Welfare (HEW) and the Department of Labor continued to fund AIM.

"We kept sending them funds for community actions programs," an OEO official said, sarcastically "and they kept giving us community action.

In 1970, AIM members took over the former prison island of Alcatraz in San Francisco Bay, blocked entrances to the Bureau of Indian Affairs and disrupted a conference of the National Congress of Indian Organizations sponsored by the OEO—which incidentally, paid for $30,000 worth of vandalism damage caused by AIM.

AIM was relatively dormant in 1971, but when Raymond Yellow Thunder, an Oglala Sioux was shot and killed in Gordon, Neb., in early 1972 AIM members moved in and demanded that local police turn over a white man accused of the crime for trial by an Indian jury.

After they tied up the town for more than a week with picketing and several violent confrontations, AIM members moved a few miles north to the Oglala Sioux reservation town of Pine Ridge, S.D., and did $50,000 worth of damage to the Crazy Horse Museum.

The reason for that destruction, Bellecourt said, was that the owner, even though he was married to an Oglala Sioux, was white.

In the fall, AIM took over a peaceful lobbying effort called "The Trail of Broken Treaties" from more moderate Indians and used it as a vehicle to occupy the Bureau of Indian Affairs in Washington.

When AIM members left with $66,000 in OEO money after six days they had destroyed or looted an estimated $3 million worth of the BIA's furnishings—including many irreplacable Indian artifacts and paintings.

Earlier this year, AIM members were behind disturbances in Rapid City and Custer, S.D., before moving into Wounded Knee in late February.

AIM's present tactics have been disavowed, by almost every recognized American Indian leader outside that organization in Minnesota and the Dakotas—another fact that had gone virtually unreported by the media.

"What AIM is trying to do is to move onto the reservation of a tribe that has given it little support and force the ouster of the tribal chairman," said Roger Buffalohead, acting chairman of the Department of American Indian Studies at the University of Minnesota.

"If AIM wins this confrontation and forces Wilson to resign," said Mrs. Peake, "they'll be able to gain control of every reservation in the country. The majority of the 800,000 or so American Indians will think AIM has government sanction.

"When you look at the federal money they've been able to get and practically burn up, it's not hard to believe that Indians believe that right now," she concluded.

THERE IS NO DISTORTION IN THE GENOCIDE CONVENTION

Mr. PROXMIRE. Mr. President, my esteemed colleague, Mr. ERVIN, the distinguished Senator from North Carolina, presented on March 13 an extended discussion of the reasons the United States should not be a party to the Genocide Convention. Seven points were raised in this discussion, and I feel it my duty to rebut these seven points during the next several weeks and to demonstrate persuasively that we should indeed ratify this convention.

The first point raised by my distinguished colleague is an alleged distortion of the concept of genocide as embodied in the language of the convention. The discussion alleges that—

This distortion and perversion of the plain concept embraced in the word "genocide" represents an effort on the part of the drafters of the convention to make punishable either in the courts of an adherent to the treaty or in an international tribunal . . . all of the acts enumerated in articles II and III of the convention. Since an intent to destroy a single person belonging to one of the four designated groups—national, ethnical, racial, or religious—would subject an official or individual to punishment, the treaty would make virtually every person in any nation adhering to it a potential victim of genocide as the meaning of that term is distorted and perverted by the convention.

In fact, Mr. President, this argument is a restatement of one commonly brought against the convention; namely, that the phrase "in whole or in part" contained in article II of the convention might be construed to make the killing of one or several members of any identifiable group an act of genocide.

Just as this argument has been raised many times, so it has been successfully rebutted each time. Article II defines genocide as the commission of certain enumerated acts "committed with the intent to destroy, in whole or in part, a national, ethnical, racial, or religious group, as such." Diplomatic and legislative history shows that the addition of the words "in part" does not leave the convention open to the objection cited earlier.

The key to understanding the words "in part" is to remark that the article is referring at this point not to destruction of groups, but to the intention to destroy these groups. It is, therefore, clear that individual or isolated instances of killing would not come under the purview of the convention unless the intent to destroy a national, religious, ethnical, or racial group as such is proved. If such intent is not proved, the killing of isolated individuals cannot conceivably be regarded as genocide within the meaning of the convention. The distinguished Senator from North Carolina would have us believe that only annihilation of a group should qualify as genocide; the convention adds the important stipulation that acts done with such intent, even though not successful, should also qualify as genocide.

Mr. President, I believe this disposes of the first of the seven points against the Genocide Convention made by the distinguished Senator from North Carolina. In the next few days, I will continue to rebut the rest of these points, as part of my continuing efforts to persuade this body to ratify the convention without delay.

FOOD PRICE INCREASES

Mr. THURMOND. Mr. President, I rise today to discuss a topic of immediate importance and great concern to every American—the high cost of eating. In recent months, rapid increases in food prices, especially meat products, have forced the American consumer to tighten his belt buckle and pinch his pennies.

Many consumers across the Nation,

frustrated and helpless in the face of skyrocketing prices, are boycotting meats as a protest. Others are being forced to forgo purchasing meats altogether, and are relying on other protein sources such as fish and cheese. Although all consumers are feeling the effects of these high prices, the elderly and those living on fixed incomes are the ones most adversely affected.

Moreover, we are told that the situation is likely to get worse before it improves. The Labor Department predicts that food prices will advance a full 6 percent for 1973. If this prediction is accurate, this will be the greatest rise in prices since 1951, when prices soared 11 percent. A 6-percent increase this year would mean that food prices would have jumped 43 percent since 1962.

Mr. President, I believe there is one point on which we all agree—this is an intolerable situation. We all concur that steps must be taken to correct it, and the only question is how.

I believe that too many have been too quick to criticize. Some would have us believe that President Nixon is the culprit behind the rise in food prices. Some talk as if the President only had to wave the magic wand and food prices would revert to reasonable levels. But a close analysis of the matter clearly indicates that the events which caused this drastic increase are very complex and often unforeseeable. Although I do not have a simple solution, Mr. President, I would like to point out a few facts which may serve to put the matter into proper perspective.

First of all, let us look at the brighter side. The average American spent just about 16 percent of his total disposable income on food last year. This compares to 23 percent of income budgeted for food 20 years ago. So it can be said with some degree of academic preciseness that food is a better bargain today than in 1952.

But, practically speaking, this is little comfort to the consumer who has helplessly watched food prices soar in recent months. Last month alone, the national cost of food increased 2.3 percent, the largest monthly growth in 20 years. Wholesale prices climbed 1.9 percent last month. If the wholesale prices of processed and raw food continue to climb as they have this year, the annual rise will be more than 50 percent by December.

As I said, Mr. President, these increases are being brought on by many factors—some uncontrollable. To make my point, let me review briefly the circumstances which were primarily responsible for the beef price increases. In 1970, cattle supplies were already relatively low. Severe corn blights and droughts across the country rapidly increased the cost of feed. Farmers had to pass along this increase when the cattle were brought to market. Moreover, many were discouraged from building up their stock because the rising feed costs could eventually put them out of business. This was occurring when the Nation was generally experiencing an upturn in the economy. In other words, more people had more money to spend. As a result, consumer demand for beef was far greater than the supply and the cost of beef shot up.

The President is being urged to enact Federal price controls on all raw agricultural products. To his credit, he has wisely resisted this approach. Controls would not encourage producers to increase their supplies. Decreased supplies would be a real possibility and this would ultimately lead to even higher prices and the rise of the black markets.

Aside from this, the logistics of strict controls on raw products would call for thousands of inspectors scrutinizing thousands of farmers, producers, and distributors. Secretary of Agriculture Butz says this would be an impossible situation and I concur. It should be noted that controls were rather effective during World War II largely because of patriotic incentives. After the war, however, the controls lost their effectiveness.

I agree with the President's moves to keep close tabs on food as it goes through the processing and distribution channels. Food distributors and processors should be allowed to make an adequate profit. But the administration should be very adamant in demanding that the profit margins stay within bounds which would not contribute to further inflation and unnecessary price hikes. Controls are unnatural in our society and I look forward to the day when they can be lifted. But that day will come only when each individual and each company responds to economic pressures reasonably and in a manner which is in the best interest of all.

The fact that food is a necessity creates the economic condition where demand cannot exert the needed pressure on supplies in the short run. This situation suggests a void in the free enterprise market which must be filled by a strong, responsible Government. In this unique situation, we must all make sacrifices for the good of our economy.

I have today sent a telegram to President Nixon asking him to investigate and undertake a three-point plan to stave off this situation for the next 12 months. I suggested that his plan contain: First, a mandate to the Secretary of Agriculture to submit proposals to Congress which would have the effect of increasing the supply of foodstuffs; second, a mandate to the Director of the Cost of Living Council to promulgate stringent regulations to limit all unjustifiable increases in the cost of processing, transporting, and marketing foodstuffs and to use all available resources to monitor the adherence to these regulations; and third, a directive to the Adviser for Consumer Affairs to undertake an immediate program to educate the public on food-purchasing priorities which could reduce demand on scarce commodities.

I join the President in urging every American to participate in the fight against high food prices. As the administration attempts to increase the supply of food products, the consumer can help by decreasing his demand for scarce products. All of us—the farmer, the processor, the distributor, and the consumer—are in this fight together. Cooperation and understanding are the key to halting price hikes. We may have to make some sacrifices for the next few months, but we will all benefit in the end.

NATIONAL GROWTH

Mr. STEVENSON. Mr. President, our country has come late to the realization that haphazard growth and development threaten the quality of American life. Title VII of the Housing and Urban Development Act of 1970 set forth for the first time some guidelines for a national growth policy and mandated the President to submit a biannual report on growth to the Congress. The Housing Subcommittee on which I serve will soon commence hearings on housing and urban development legislation and it is likely that title VII will undergo review and strengthening. In this regard my distinguished colleague, Senator VANCE HARTKE, has recently published a comprehensive analysis of national growth policy in the Catholic University Law Review. Senator HARTKE's article will be of great assistance in the subcommittee deliberations and indeed ought to be required reading for anyone concerned with developing a more rational growth policy. I 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:

TOWARD A NATIONAL GROWTH POLICY

(By Senator VANCE HARTKE)

Can one live in a society that is out of control? That is the question posed for us by the concept of future shock. For that is the situation we find ourselves in. If it were technology alone that had broken loose, our problems would be serious enough. The deadly fact is, however, that many other social processes have also begun to run free; oscillating wildly, resisting our best efforts to guide them . . . Urbanization, ethnic conflict, migration, population, crime—a thousand examples spring to mind of fields in which our efforts to shape change seem increasingly inept and futile.—A. Toffler, *Future Shock*, 446 (1970).

INTRODUCTION

Alvin Toffler describes "future shock" as the shattering stress and disorientation induced by too much change in too short a time.[1] But what awaits America in the wake of its exponential rate of change and growth is not only future shock, but the end of existence as we know it.

America is beset by a number of problems that continue to grow more rapidly than the government's ability to limit or contain them. Since 1900, the country has undergone a demographic revolution. In terms of total numbers, our population has increased from 76 million in 1900 to almost 205 million in 1970.[2] This represents an additional 129 million people that our society has been called upon to accommodate over the past 70 years. By the year 2000, the population will soar to between 270 and 320 million.[3]

More alarming is that America, as a metropolitan nation, will see an even greater population increase in the urban areas. By 2000, present trends will concentrate 83 percent of the population in the ten largest urban regions occupying one-sixth of the national land area.[4]

Can our society cope with these enormous increases in population and the resulting changes in settlement, land use and resource consumption?

Footnotes at end of article.

These massive increases and concentrations of population will test the nation's ability to preserve the quality of the environment and could nearly deplete our natural resources.[5]

Along with these problems, however, will come an even more serious threat—the increasing separation of black and white citizens in the nation's cities. In 1960, 78 percent of all minorities residing in metropolitan areas lived in the central city.[6] With a projected increase in dispersal of blacks, there will be some change in this concentration, but by 1985, three out of every four urban blacks will still live in the central city. In contrast, in 1960 almost one half of all whites in metropolitan areas resided in the central city. By 1985, seven of every ten whites in metropolitan areas are expected to live in the suburbs. Thus, the basic conclusion of the Kerner Commission Report—that "our nation is moving toward two societies, one black; one white—separate and unequal"—will have been proved accurate.[7]

The vast national expansion into the suburbs generating racial polarization in our metropolitan areas is not due solely to population increases and decreases but also to migration. This migration is reinforced by the relocation of many corporations and governmental facilities—and the jobs they bring—to the suburbs.[8]

The suburbs have also contributed to the disjointed growth of our metropolitan areas into increasingly segregated and financially unbalanced sectors through exclusionary zoning—precluding lower income people and other minorities.[9] Still another cause of this social and economic imbalance arises because local public services depend so heavily on locally raised revenues produced by locally applied taxes, principally the property tax.

Land use, especially in our metropolitan areas, is another example of tremendous waste and mismanagement. Even though "land is our most valuable resource," [10] long-term decisions in this field have been made on the basis of expediency and short-term economic considerations. Mountains have been carved by strip mines, wet lands dredged and filled, and suburban sprawl allowed to profligate. Once land is committed to a specific use—be it social, economic, or environmental—it may be impossible to use it differently in the future.

Today, the effects of the misuse of the environment and uncontrolled growth are only just beginning to be felt and understood. This country, its character, and its people have developed, in large part, because of our abundance of natural resources. Perhaps, then, our reckless growth and environmental misuse of our natural resources can best explain the source of the social problems that confront the nation today. Controlling the nation's growth is not only an end in itself, but the key to understanding the future of American domestic policy.

Only if we examine our past mistakes and try to understand the full ramifications of uncontrolled national growth, will we be able to bring sense to our government's domestic policies and practices. It is imperative that we act now to adopt a national growth policy which will both protect our heritage of irreplaceable values and provide guidance for future national development.

It is the purpose of this article to determine why the necessity for a comprehensive national growth policy has arisen and the shape that policy should take in guiding this nation's future.

EARLY HISTORY

To comprehend the dilemma the nation presently faces in an era of almost uncontrolled growth, an historical examination of how America planted the seeds for future chaos is necessary.[11]

Footnotes at end of article.

The debate over national growth and development began with the controversy concerning the utilization of public lands in the Constitutional Convention of 1787 when the original states ceded their claims to western frontier land to the new central government.[12] The question presented was whether the ceded land, and any to be acquired later, would be used for the benefit of the separate states, the central government, or individual settlers. The resolution of this question would shape the character of American life.

The debate was prompted by various pressures upon the Congress during the critical period following the Revolution.[13] First, Congress, without means of securing revenue, had promised land to soldiers in payment for their services. Second, the national government desired to utilize the rich frontier territories in the public benefit, while providing adequate defense against the Indian tribes. Further, a uniform system of government was essential for the orderly maintenance of the newly-acquired lands. And, finally, the country was confronted with the pressures from immigration and inadequate housing in the nation's cities.

The result was the first rural development act, the Land Ordinance of 1785,[14] which provided for an accurate survey, recording, and uniform requirements for townships, in the first national attempt to distribute public land.

After the adoption of the Constitution, the federal policy towards national development was modified by the use of a credit financing system and by allowing money from land sales to be used by the newly created western states. Settlers were encouraged to purchase public lands in the belief that this would spur development and increase the value and utility of the remaining lands.[15] Subsequently, the national policy shifted from one of sale to private citizens, to one of donation of land to the new states. The new states, in turn, sold or ceded the land to private citizens. One result of this state administered program was the monopolization of vast tracts of land by private individuals. By altering the earlier policy of raising revenue to one of donation, Congress stimulated the development of educational and transportation systems.[16]

The vast flow of settlers to the West, however, still preceded the development of the country in the 1800's. Despite the need for Congressional initiative, legislation generally echoed what had already occurred rather than what was needed to shape a futuristic national development policy.[17]

However, sentiment was growing for a new policy. The southern system of free land grants and the apparent ease of New Englanders in acquiring land ownership resulted in much dissatisfaction with the early federal land programs.[18] Consequently, measures to prevent the common practice of intrusion onto public land before the land was surveyed and readied for sale were largely ineffectual and the federal government was often compelled to legitimize earlier trespasses upon its land.[19] The demand for systematic land reform continued to grow.

The reform took its shape in the Homestead Act of 1862,[20] which offered 160 acres of surveyed public land free to anyone who would reside upon it and farm it. Two underlying theories were central to the Homestead Act. First, [t]hat the free grant to actual settlers, in consideration of the expenses they incur in making settlements, . . . which are usually fully equal to their actual cost, and of the public benefits resulting therefrom, . . . is a wise and just measure of public policy. . . .[21]

And, further, [t]hat all men have a natural right to a portion of the soil; and that, as the use of the soil is indispensable to life, the right of all men to the soil is as sacred as their right to life itself. That the public lands of the United States belong to the people and should not be sold to individuals nor granted to corporations, but should be held as a sacred trust for the benefit of the people, and should be granted in limited quantities free of cost, to landless settlers.[22]

While homesteading did not preempt other federal land policies as its sponsors had hoped, it did result in grants to settlers of almost 300 million acres of public land and served as a major impetus to westward migration.[23]

Another key to the rapid development of the West—was the system of land grants to the railroads. The earliest railroad grants, including grants of land in aid of construction as well as rights of way or easements, were made directly to the states on behalf of the railroads.[24] Later, however, Congress determined that this indirect subsidy made federal control impractical, henceforth, grants were made directly to the railroad companies.[25] It seems clear that Congress, in its desire to develop the West, was overly beneficent to the railroads. In his famous novel, *The Octopus*, Frank Norris described the railroad's looting of the federal government's treasury and the ruin of many small farmers in the West.[26] The companies advertised extensively in Europe and the eastern United States encouraging many settlers to buy and develop lands in the West. The rail system which emerged united new undeveloped areas with the commercially established East, resulting in economic expansion on a national scale.[27]

The demand for reform increased and, in 1877, resulted in the Desert Land Act.[28] The Act gave the Secretary of the Interior the authority to withdraw irrigable land from disposal or market processes until irrigation works, financed by the Federal government, were constructed. Even though much of the land came into the hands of large growers, this was another incentive to development.[29]

Even at the height of economic pressure for increased land development on the frontier, a few voices were raised against the rapid depletion of the nation's resources and the need for better land management. Some were upset with the large private land holdings that had been carved out of the public domain.[30] Others were alarmed at the tremendous decrease in the amount of federal lands, with only half of the original public land under state or private control by 1900.[31]

Very little concern was given in our early "growth" policies to the specific physical characteristics of land or of its suitability for private uses. It had been assumed that the whole purpose was to transfer public lands to private hands as quickly as possible, with little attention given to the kind of private ownership that developed. The cycle of clearing land, cultivating it until it was exhausted, abandoning it, and moving westward to clear new land continued throughout the 1800's. The result was that vast areas of land were cleared, forests were destroyed, erosion occurred, and the seeds for environmental disaster planted. But the general public was quiescent, as yet unconcerned with the misuse of the land.[32]

Eventually, the growing public awareness of the disaster led to Congressional action. In 1891, the Forest Reserve Act [33] authorized the President to reserve from disposal public land wholly or partially covered by large stands of timber. The land disposal policy of the 19th century was further modified, if not eliminated, with the passage of the Taylor Grazing Act in 1934.[34] Aimed at alleviating the steady deterioration of western range land, it authorized the Secretary of the Interior to establish grazing areas on the remaining public domain and to issue permits for their use. More importantly, a subsequent amendment directed the Secretary to classify 150 million acres of public land according to their most suitable use.[35] Once classified, the land would be marked either for retention or

disposal. The retained land would be subject to intensive control by the government, which was to consider the best utilization of the land in light of competing demands for its use.

In the East, modern urban land use regulation began in New York City in 1916, when Fifth Avenue merchants became alarmed at the pace of encroaching industrial development on the downtown shopping area.[36] As originally conceived, zoning was a radical departure from traditional notions about private property use, which previously had been limited by little more than the law of nuisance.[37] By 1922, reformers had persuaded the federal government to propose a Standard Zoning Enabling Act as a guide to the states.[38] Many states responded with alacrity by enacting laws which authorized local governments to classify and control land uses according to a comprehensive plan.[39] The main concern of these laws was to create local regulation with little state oversight. The constitutionality of the new technique was tested and upheld in 1926 by the United States Supreme Court in the historic case of *Village of Euclid v. Ambler Realty Co.*[40]

The nation did not experiment with national central planning until prompted by the depression eight years later. In 1934, an Executive Order[41] created the National Resources Board to: (a) gather, prepare, and provide the President with recommendations and information that would be helpful to the planned development and use of land, water, and other natural resources; (b) consult and cooperate with federal, state, municipal and private planning and research agencies in carrying out its duties; (c) make note of all proposed federal projects involving the acquisition of land and land research projects; and (d) in an advisory capacity, provide agencies with information or data pertinent to their projects. All executive agencies were to inform the Board of projects before actual work was undertaken.[42]

Advisory committees were formed and, on the national level, the Board began planning and coordinating a national public works program. The Board also considered population trends, how to deal with the redistribution of economic opportunities, and the future availability of water and mineral resources.

While planning for the use of various resources was included within the scope of the Board's activities, land planning was a major aspect. In an early report,[43] the Board's committee on land planning concerned itself with the retirement of submarginal lands, resettlement policies, programs for national parks, irrigation of western lands, wetlands, and the effect of tenancy as contrasted with ownership on land use patterns. In cooperation with the pertinent federal agencies, work was also done on agricultural land resources and requirements, soil erosion, forest resources and demands, government land policies and problems, open space preservation, and the general inadequacies of land use planning.[44] The activities of the Board were progressive, creative, and controversial.[45] Despite repeated statements that the Board's function and intent was to be only advisory, agencies of the federal government, then as now, jealously resisted coordination and interference with their own projects. The Board was dissolved in 1943.[46]

The National Resources Board had set a good example. Other agencies of the federal government soon acted upon some of its conclusions and crossed the traditional barrier of assumed state power by directly involving themselves in city and regional planning and building. Indeed, under pressure from the depression, both state and local governments invited such action. The Public Works Administration [PWA] not only financed construction of schools, sewerage systems, bridges, roads and dams, but also took over the construction of housing for low-income people.[47] PWA bought sites, drew plans, built the houses and, where necessary, used the politically acceptable power of eminent domain.

The Resettlement Administration initiated America's most far-reaching regional planning project in developing the Tennessee Valley Authority [TVA] to prevent floods, provide soil and irrigation control, furnish cheap power, and develop recreational facilities.[48] The TVA received the active support of state conservation, health, and highway departments.[49] Senators who historically had strongly expounded "states rights" defended federally-initiated public works, including housing.[50] The authority for such projects was assumed to proceed from the general welfare clause of the Constitution.

GROWTH OF LOCAL LAND USE REGULATIONS

In the years following the dissolution of the National Resources Board, most of the policy affecting national growth developed at the local level and dealt with "land-use" concepts.[51] States were primarily responsible for regulating development, although, in most cases, authority was delegated to local governments. Various tools, generally ineffective, were used at the local level in an attempt to control and guide development.

A major method of persuasion was the exercise of the state's police power in the form of a wide array of land use and development devices designed to protect the welfare of the general public by limiting the free use of private property rights. However, a fatal flaw of the police power is that it's application is subject to constant change, often resulting in limited, short-term results and effects.

Zoning was the primary police power used to control growth and development.[52] It classifies and segregates the land according to the permitted uses. Although it worked in well-established communities where there was little land speculation or pressure for new commercial facilities, it had less successs preserving open space and channeling growth.[53] While zoning could implement sound development plans, it usually was honored in its breach by the excessive granting of variances or amendments once the pressure of development became too intense.

Zoning was often employed to enforce racial or economic segregation and exclude undesirable industrial and commercial newcomers.[54] In such communities, this method of zoning was defended on the grounds that the development would cost more in municipal spending than it would pay in property taxes.[55] Quite often, then, apartments, public housing, and even one-family homes on small lots were proscribed.

Another tool for regulating growth was found in subdivision controls.[56] They comprise all of the local regulations and ordinances that inform the land owner what he can and cannot do in developing his land.[57] Often, these controls lead to both excessive economic benefits for the developer and unattractive developments with uniform setback and lot size, unimaginative street patterns, and little provision for open space or for commercial facilities within walking distance of homes.[58] However, subdivision controls could have been used to encourage cluster development, open space preservation, planned unit development, and other imaginative innovations which can bring a new sense of community and progress to an area. The flexibility of subdivision controls allows potential sophistication in the development of urban and suburban areas.[59]

Before water and sewer service can be extended to new housing developments, most regulatory bodies require certification that public capacities are adequate to supply the services and that equipment and other facilities on the property meet local specifications.[60] When combined with adequate control over the use of wells and septic tanks, these permits can dictate the direction and speed of urban growth. Nevertheless, sewer and water lines today are often installed, in a response to already uncoordinated and conceived development.[61]

Covenants, conditions, easements, and similar restrictions on property use comprise a special set of land use devices which traditionally have been employed by neighborhood and private groups to protect land from commercial, industrial, and undesirable economic or racial groups.[62] These devices can be tailored to specific goals, are well established in the law, and continue their effect, even if the property is sold.[63] With a national policy on growth, these private agreements might be given better effect.

Sometimes state governments and the federal government require permits for certain activities on land.[64] Although the control of individual land use decisions regarding private land is essentially local, and varies widely, these permits may influence major growth patterns and economic development. Federal permits are issued when public lands are involved. Leases, use permits, and licenses are granted to extract oil, gas, coal, and certain other minerals and for grazing, recreation, and timbering.[65] These permits not only affect the public lands but also may influence the use of nearby privately owned land. The permit power of the Army Corps of Engineers is an important tool in land use decisions affecting navigable waters across the country.[66] Some states have enacted legislation requiring permits for activities that might cause damage to wetlands or other critical environmental areas.[67]

The local property tax has long been another important influence on growth and development. An important factor in the decline of social services in some cities has been the loss of actual and potential tax revenue when residential, commercial, and industrial development relocate in the suburbs.[68] With strict zoning and subdivision controls, many suburban jurisdictions exclude all but those who will add more to their tax base than they will require in municipal expenditures. Rather than finance activity for the benefit of all people in an integrated urban complex, the property tax has encouraged local isolation from regional land use problem.[69] Although assessment procedures have improved in many municipalities, more reform is necessary for a fair distribution of the tax burden. At present, land and improvements in urban areas tend to be undervalued.[70] Consequently, land owners in urban areas are discouraged from restoring structurally sound buildings or replacing deteriorating ones with new structures, because such improvements will raise the taxes disproportionately. In developing urban fringe areas, low taxes on raw land have encouraged speculative purchase and leapfrog development.[71] Few regions have effectively exploited the interrelationships of zoning, subdivision controls, and other land use devices with property tax policy. The local property tax could be a constructive means to encourage cluster development and open space preservation. Special tax treatment for commonly owned open space and community facilities also encourages protection or enhancement of the land.

The central problem in employing these devices has been public distrust of planning. The public often fails to understand that a comprehensive plan is a living, changing mechanism, and not a static set of maps.[72] Many citizens believe that the planning process has ended when the municipality approves a master plan. A comprehensive zoning policy must accompany any master plan to efficiently effectuate its purposes. The period of time required to prepare land use plans for large metropolitan areas has caused

Footnotes at end of article.

many citizens to regard planning as an academic exercise. Often this feeling is only strengthened by those planners who ignore the opinions of local residents. However, growing numbers of cities and metropolitan regions have implemented innovative programs as planners begin to take greater cognizance of public attitudes and as planning is better understood by the citizenry.

Planning has also been criticized for its inability to influence important land use decisions. Although planning organizations are frequently pressured to conform their plans to unwise development, this is not necessarily the fault of the planning process. It may be caused, instead, by the inadequacy of institutional arrangements formed to implement the plan. In many localities, the planning function becomes little more than advisory, and the planning officials spend their time applying their own political pressure rather than planning.

Lastly, the planning itself is often inadequate. What should be "comprehensive" plans often deteriorate into a somewhat complementary set of specific functional planning goals for transportation, open space, schools, or some other single goal. In the process, rational perspective is lost and often inadequate, short-term solutions are proffered in place of more complex, long-range, comprehensive ones.

Most of these tools offer some promise of playing an integral part in the construction of a national growth policy. The deficiency in the techniques of local land use regulation has been a lack of commitment to their efficient, long-range, and comprehensive use. Unfortunately, the federal government's performance in this area has not been much better.

FEDERAL PROGRAMS IN AN ERA OF TRANSITION

Policies: Eisenhower to Johnson

In the early 1950's, there was a resurgence of activity identified with directing the nation's growth. When the Democratic Party captured control of Congress in 1954, Senator Paul Douglas, Chairman of the Joint Economic Committee, advocated the adoption of several growth measures: the establishment of a building program to improve the infrastructure and public services of communities with high unemployment; the creation of a federally supported industrial development corporation to supply inexpensive long-term credit to firms locating or expanding in these areas; the expansion of unemployment insurance coupled with measures for occupational retraining; and federal technical assistance for community planning of remedial measures. A bill incorporating these ideas was drafted in 1955 by Senator Douglas and others.[73] To gain additional political support, the bill also extended aid to low-income rural areas.

Despite this maneuver, the prospects for the legislation were dim. During periods of prosperity, there was little interest in the problem; and when unemployment was widespread, there was reluctance to allocate special resources for the poorest areas. Opponents felt these measures would simply sustain marginal economies and marginal firms and draw jobs away from other areas; instead, they preferred retaining measures and subsistence allowances to bring workers to new jobs.

Then, in 1956, largely because of increase in the already high levels of chronic unemployment in the depressed areas, the Council of Economic Advisors retreated from its previous position of opposition to one of measurement, development, and control of growth in specific areas.[74] Shortly thereafter, the Eisenhower Administration introduced a bill which provided for a revolving loan fund to assist new or expanding firms in depressed areas.[75] But both this bill and the one introduced by Senator Douglas were killed by the House Rules Committee. The same legislation came before Congress in 1957. Again, the bills were unable to muster support.

With the recession of 1957, however, interest in combating general unemployment was renewed. But, to the dismay of those who favored emphasizing the needs of the depressed areas, an attempt was made to substitute for their legislation a measure providing 2 billion dollars for the construction of community facilities throughout the country. After prolonged efforts and much maneuvering, the supporters of the Douglas bill were finally able to get their proposals through Congress [76]—only to have the legislation vetoed.[77]

The veto became a major issue in the 1958 Congressional campaign.[78] It was even partly responsible for the subsequent Democratic landslide, since there were mainly Democratic victories in the depressed area. This program was reintroduced at the next session of Congress, but, although trimmed down substantially in the scale of assistance offered, it was blocked, once again by a Presidential veto.[79]

By 1960, the issues had become prominent enough to play a role in the election of John F. Kennedy. The new President had long been a firm supporter of aid to depressed areas.[80] Kennedy was familiar with the depressed areas of Massachusetts, and the crucial primary campaign waged throughout West Virginia—one of the poorest states in the country—had profoundly sensitized him to the plight of families trapped in such environments. During the campaign, Kennedy pledged that, if elected, aid for depressed areas would receive first priority. Such legislation was, in fact, the first recommendation he submitted to the new Congress.[81] It was quickly passed in 1961 and differed only slightly from the original Douglas bill.[82] The program was assigned to a new agency, the Area Redevelopment Administration (ARA), within the Department of Commerce, with the expectation that both the Administrator of the program and the new Secretary of Commerce could be relied upon for vigorous support.

It had been a long struggle, lasting over five years, but now a bill to help the depressed areas had been enacted. Unfortunately, during that five-year period, the economic conditions at which the bill was directed had deteriorated.

Early Area Redevelopment Policies

The ARA was made responsible for determining area designations and grants of loans and subsidies and for administering all redevelopment programs. Since the budget and the legislation kept the size of its staff small, the ARA, whenever practicable, delegated key responsibilities to other agencies.

The new agency was given funds for inexpensive business loans.[83] These could be used to assist any businesses the ARA chose, provided that there was a reasonable assurance of repayment. To avoid charges of "pirating," the legislation limited the loans to firms which were not relocating from other areas and to firms whose expansion would not increase unemployment in the area of original location or in any other area where such entity conducts business operations.[84] These provisions restricted the loans largely to new activities or to firms establishing branch plants and to industries which were not operating below capacity because of growth prospects.

The ARA was also given funds for the construction of public facilities. Grants could provide up to 100 percent of the cost, if the ARA was satisfied that the projects could not be implemented without such assistance and that the communities involved were contributing as much as they could to the cost. The legislation required the communities to assess their future prospects, partly because the public facilities and training programs were supposed to be evaluated on the basis of these analyses. These assessments would be used in the preparation of an Overall Economic Development Program (OEDP), describing the main activities and trends of the area and its opportunities and problems.

In 1962, the ARA acquired responsibility for administering the Public Works Acceleration Act.[85] This was a short-term, anti-recession measure, effective until June, 1964, providing funds for public works projects. The main aim of this measure was speedy generation of the maximum number of jobs in the greatest number of areas suffering unemployment.

When the legislation was first introduced, about 70 depressed areas were intended to benefit from the program.[86] President Kennedy, however, thought the bill should also provide assistance for some 200 communities with stagnating economies. As part of the general effort to generate Congressional support, the criteria for eligibility were further relaxed. Eventually, the final version of the bill contained a clause which requested the ARA "to distribute the projects widely among the several States . . . in order that actual experience with this program may be had in as many States and in as many areas and under as many circumstances as possible."[87] Congress wanted to provide assistance for as many of the poorer communities with surplus labor as possible, not just the most needy; and the ARA wanted Congressional support. Therefore, all of the designated areas were made equally eligible. After two years of operation, the number of eligible areas exceeded 1,000 and these areas were distributed throughout the United States.[88]

The result was a scattering of resources over a large number of relatively small projects. Only 40 percent of total loan funds during the early years were invested in areas with excessive unemployment.[89] About two-thirds of the projects and investments made were allocated to smaller urban areas and rural communities with populations of less than 50,000.[90]

Despite the difficulties which were besetting the fledgling program, the ARA's primary aims were consistant with the goals set by President Johnson for his administration. Therefore, rather than eliminating the program, an attempt was made to modify the workings of the ARA through the passage of the Public Works and Economic Development Act of 1965.[91] As an expression of administrative confidence, appropriations for the ARA were more than doubled and its staff increased. In addition, ARA was given a new name—the Economic Development Administration (EDA).[92]

The most significant legislative changes to effect the nation's growth and development were in the definition and organization of the areas which might receive assistance. The new act set up larger districts and regions and reduced the number of designated areas. Equally important was the conscious attempt to devise a general development strategy. The administrators tried to persuade Congress that economic assistance was most effective "in areas which (were) in relatively better economic health." [93] A strategy based on a comparatively small number of growth centers was considered the key to spurring desired effects throughout an entire region.

The smallest planning unit under the 1965 Act was still the redevelopment area, with each state having at least one such area.[94] To be eligible for assistance, an area had to demonstrate substantial and persistent unemployment and either median family incomes not greater than 40 percent of the national median or a substantial loss of population due to lack of employment opportunities.[95] An area might also qualify for aid if it was experiencing severe economic distress or an abrupt rise in unemployment because of the closing or threatened closing

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of a major employment source. Finally, areas with substantial unemployment could also receive help even if not otherwise qualified.[96]

The multi-county Economic Development District (EDD) was the intermediate unit in this system. A microregional organization, the EDD was to serve as the basic unit for planning the growth of a depressed area within a state. Like the redevelopment area, it was responsible for preparing an OEDP and it could obtain financial assistance from the EDA for planning, organization, and staff. Each EDD included at least two redevelopment areas and an urban center of less than 250,000 people. The choice of an urban center was critical. It had to have sufficient population, resources, public facilities, industry and commercial services to ensure that its development could become relatively self-sustaining and that its growth would help alleviate distress in the redevelopment areas.

To supplement these units, the 1965 legislation also provided for the establishment of regional planning commissions for redevelopment regions involving several states.[97] The jurisdictions of the commissions were larger than those of the other administrative units, but the jobs were essentially the same: to evaluate the best investment and implementation growth strategies for their regions and to utilize effectively the technical assistance and economic subsidies made available to them through the EDA.[98]

Although EDA's dominant concern remained the depressed region, it also began to deal with poverty areas in the big cities. The agency financed some research on job creation strategies and methods by which federal policy could help distressed areas. It also urged its regional commissions to press for more federal spending in their regions and to recommend the most effective deployment of federal expenditures made available to them. It not only examined appropriate national policies for regional development, but even began to discuss building new cities or expanding existing ones.

Deficiencies

The inability of the old ARA to deal effectively with depressed areas on a county basis had led in a relatively short time to the creation of larger planning jurisdictions: the multicounty district and the multistate region. The central city had also been identified as a lagging region for which the tools of the 1965 Act might be used. In addition, the ARA-EDA had begun to accumulate evidence designed to persuade Congress that "separate and unrelated projects" did not work and that jobs could not "be brought to every village and hamlet in the United States."[99]

One problem facing the agency was the poorly defined relationships between the planning and the implementation mechanisms. The jurisdiction of the areas overlapped and the basis for resolving conflicts in development policies was obscure. The various limitations placed on the different organizations made them better able to discuss problems than to act on them. Even if imaginative plans were agreed upon, there were no adequate instruments, either public or private, to carry out development in the proposed growth areas.

Perhaps the most serious difficulty of all was the inability of the policymakers to attack the problems in the most critical areas—the metropolitan regions. The EDA was unable to extend aid to more than a few cities because the definition of a redevelopment area was still based on the existence of high unemployment; this definition, unfortunately, excluded most cities, where high unemployment in the business and industrial districts balanced low employment in the ghettos.[100]

Nor was EDA able to come to grips with the issues raised by the migration of the black population from the South and the growth of ghettos in the central cities of the North. The failure to stress the interdependence of these issues led to the EDA's neglect of what might have been one of its most important responsibilities—the transformation of the economy of the Nation's most critical region, the deep South. Aside from the racial issue, it was the South's lack of prospects for the black worker—in agriculture and in the southern cities—which accounted for the black migration to northern cities.

Unfortunately, the desire to rise to the challenge was frustrated by the inability to do so. Little could be done, as long as the government's financial ability to act was substantially impaired by its growing commitment to the war in Vietnam. Nonetheless, key advisors of the administration, anxious to do something, turned their attention to the conditions of life in the ghettos. Such resources as were available were put into comprehensive programs for improving specific ghetto areas and to provide further incentives for building large subdivisions and new cities in the metropolitan regions. The Demonstration Cities and Metropolitan Development Act of 1966[101] and the Housing and Urban Development Act of 1968[102] were the principal new tools designed for these ends.

Under the Model Cities program authorized in the 1966 act, a city could experiment with solving the physical, economic, and human problems of the disadvantaged in one of its blighted areas. It could apply all of the tools and funds available under past and current legislation for planning, housing, urban renewal, job training, education, recreation, health, and welfare. The aim of the Model Cities program was to develop a broad, flexible approach utilizing existing agencies and shaped by the citizens directly affected. To encourage further experimentation, HUD financed studies by independent consultants to propose changes in every aspect of urban problems.[103]

In 1968, Congress expressly provided for enough federally guaranteed funds to cover major costs until the development could generate income from the sale of lots, homes, and non-residential properties.[104] Aside from the desire to attract private capital, the legislation had two other aims:

"To assure future outlets to the suburbs for the black population and other minorities and to provide additional ways of accommodating the vast increase of population that the cities would have to accommodate in the future."[105]

The programs were ambitious but were, nonetheless, overwhelmingly inadequate.

In response to these deficiencies, the Advisory Commission on Intergovernmental Relations [ACIR][106] produced a classic work on growth and development policy that was to guide the advocates of such a policy for most of the next decade. The report was entitled, *Urban and Rural America: Policies for Future Growth*.[107] The Commission examined recent patterns of urbanization and economic development in the United States and the relationships between the two. Both private and public influences on the geographic distribution of economic activity were analyzed. The major consequences of the increasing concentration of population in metropolitan areas and the concomitant loss of population and industries in many nonmetropolitan areas were analyzed. Some of the limitations inherent in traditional patterns of urban development were explored. Special attention was directed at the potential of some of the newer types of large-scale development, particularly new communities, in the hope that they could inject a greater degree of order into the future growth of the nation's urban areas.

The Commission recommended the development of a national policy to deal with urban growth,[108] including a re-examination of multi-state regional planning areas and agencies, and a new and expanding role for state governments through the development of state urban development plans.[109]

The Commission also suggested a number of measures that should be considered as possible elements of national, state, and local urban growth policies including locational incentives for government and private facilities, assistance for large-scale urban and new community development, improved land use planning and regulation, and strengthening local government to deal with urban growth. The report stressed the necessity of including the private sector of the national economy in these governmental efforts.

An immediate and significant result of the ACIR report was the Intergovernmental Cooperation Act of 1968,[110] which sought to coordinate federal programs with state and local government planning. Two titles of the Act are noteworthy. Title IV encouraged the President to establish rules and regulations to coordinate grants from the various federal agencies to the local governments to make them more consistent with regional and local desires.[111] Title VIII, the Federal Urban Land-Use Act, required federal agencies to coordinate land acquisition, disposal, and change of use in urban areas with local plans.[112]

The Nixon Years

The new administration, searching for ripe ideas to implement, hit upon the formulation of a national urban policy as both a logical next step and as a means of underscoring the failings of the previous incumbents. Even a Republican administration, committed to the rhetoric of decentralization and minimum federal intervention in American life, was able to reconcile its traditional shibboleths with the demands of an urban strategy.

The Urban Affairs Council and Other Developments

The first act of the Nixon administration was the establishment of an Urban Affairs Council. Executive Order No. 11,452, issued on January 23, 1969, noted that:

"The American national government has responded to urban concerns in a haphazard, fragmented, and often woefully short sighted manner (as when the great agricultural migrations from the rural South were allowed to take place with no adjustment or relocation arrangements whatever). What we never had is a policy: coherent, consistent, positive as to what the national government would hope to see happen; what it will encourage, what it will discourage.

"Having a policy in urban affairs is no more a guarantor of success than having one in foreign affairs. But it is a precondition of success. With the creation of the Urban Affairs Council we begin to establish that precondition: the formulation and the implementation of a national urban policy."[113]

The Council, presided over by the President, included the heads of various federal agencies and departments. While it was committed to coordinate programs and to facilitate decentralization and intergovernmental cooperation, the functions of the new council were vague enough to provide ample scope for its efforts. The Executive Order had asserted that:

Policies concerning urban affairs shall extend to the relations of urban, suburban and rural areas, to programs affecting them and to the movement of population between them.[114]

It had further specified that the main function of the Council was to:

Assist the President in development of a national urban policy, having regard both to immediate and to long range concerns, and to priorities among them.[115]

This policy's architect in the early Nixon years was Presidential Counselor Daniel Moynihan, who had written a noteworthy article

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on the topic in early 1969. The article described the fundamentals of a national urban policy and propounded what became known as a ghetto dispersal policy.[116] The fundamental tenets of this program were the dispersal of both poor and blacks throughout metropolitan regions and the equalization of social services in urban areas. To accomplish this goal, fragmented governmental authority had to be reorganized and consolidated, fiscal vitality of urban government restored, and specific attention had to be given to migration and settlement policies. Moynihan's approach called for increased participation by state governments, better research on urban problems, and renewed concern for the quality of the urban environment.

Also incorporated into the Moynihan urban growth policy were the writings of Harvard economist John Kain. Two of Kain's articles were widely circulated in the White House and the Administration. His "Postwar Changes in Land Use in the American City" contended that the location of spatial distribution of employment is the most important determinant of urban form or structure and that changes in the location of industry are the principal determinants of change in urban form.[117] In "Alternatives to the Guilded Ghetto", Kain criticized many central city spending programs for relying on a false analogy of the ghetto to an underdeveloped country in need of economic development.[118] Kain maintained that nothing less than a complete change in the structure of the metropolis would solve the problem of the ghetto. He advocated drastically expanding the supply of low-income housing outside the ghetto

A third significant development, during this same period, was that the mounting concern about the growth of the nation's population won new adherents for an urban and national growth strategy. The National Committee on Urban Growth Policy recommended building 100 new cities of about 100,000 persons each and ten major metropolitan areas averaging about 1,000,000 persons in accordance with expected rapid growth in our urban areas.[119] Yet, if this proposal were accepted, it would only accommodate "a mere one-fifth of the expected thirty-year increase." [120]

In late 1969, the first "true" bill advocating the establishment of a national growth policy, the Balanced Urbanization Policy and Planning Act, was introduced by Senator Edmund Muskie on behalf of the Advisory Commission on Intergovernmental Relations.[121] Muskie placed the bill in perspective by stating that:

This bill serves as a follow-up to Title IV of the Intergovernmental Cooperation Act of 1968 . . . which deals with coordinating intergovernmental policy and administration of development assistance programs. More directly, it addresses the problem of urban growth documented in the report of the Advisory Commission on Intergovernmental Relations on "Urban and Rural America: Policies and Future Growth" and in the survey of "The New City" by the National Committee on Urban Growth Policy.[122]

The bill sought to initiate a process at the national level for formulating a coordinated planning policy. It was also designed to establish a complementary program of comprehensive planning assistance and requirements.

Under Title II of the Muskie bill, the President would assume planning, programming, and coordinating responsibilities in the urban growth area. The President would be required to submit annually to Congress an urban growth report. The report would include a summary of the problems and proposals for achieving more orderly and balanced urban development. A Joint Urbanization Committee would also be established in the Congress to serve as a major focal point for legisltaive analysis of the President's report.

Title III sought to develop an intergovernmental system of planning and coordination that would buttress the development of a national urbanization policy. The title featured two significant innovations.

First, responsibility would primarily be placed upon the states but direct federal-local action would be permitted to localities and areawide jurisdictions if this responsibility was rejected by the State. Second, funds would be allocated on a formula basis rather than on a statewide distributive basis of project-by-project.

Title IV was designed to deal with the lack of both uniformity and clear definition of the numerous planning requirements found in federal grant-in-aid programs, and with the failure, in many instances, to identify the jurisdiction responsible for planning. In an attempt to bring some order out of the confusion in this planning requirement, Title IV would codify the definition of comprehensive planning and standardize the functional planning conformance requirements in five program areas—water, sewer, and other public works facilities; public health services; transportation; open space and recreation; and water resources.

The next step forward on the long road to a coordinated growth policy occurred on July 24, 1969 when the President issued Bureau of the Budget (now Office of Management and Budget) Circular No. A-95. The Circular was aimed at promoting more effective coordination of planning and development activities carried on or assisted by the federal government. The major device was encouragement of systematic communications among federal, state, and local governments carrying out related planning and development activities. The Circular accomplishes this by implementing Title IV of the Intergovernmental Cooperation Act of 1968,[123] Section 204 of the Demonstration Cities and Metropolitan Development Act of 1966,[124] and Section 102(2)(C) of the National Environmental Policy Act of 1969.[125]

The essence of A-95 is its Project Notification and Review System (PNRS), an "early warning system," to facilitate coordination of state, regional, and local planning assisted under various federal programs.[126] Coordination is sought through review of applications for federal assistance by state, metropolitan, and regional clearinghouses.[127] While clearinghouses are expected to have comprehensive planning capabilities or direct access to such capabilities in order to identify the compatibility of proposed projects to statewide or areawide plans, the "clearinghouse" aspect is equally important. For instance, a project which is not inconsistent with existing comprehensive planning may be in conflict with the programs of a particular state or local agency.

Thus, when an applicant sends a notification to the state clearinghouse, the clearinghouse will not only examine it from the standpoint of state comprehensive planning, but will also forward a copy of the notification to any state agencies having programs that might be affected. Notification is also given to specific local governments and agencies with similar programs.[128]

Numerous federal assistance programs require, as a condition of the assistance, submission of state plans of action.[129] A-95 provides state Governors with an opportunity to review such plans. Thus permitting the Governor to relate development strategies among the various federally-supported state programs to each other and to any overall strategies developed through the state comprehensive planning process.

A-95 also attempted to offset a growing tendency among federal programs to promote the establishment of regional planning activities that were uncoordinated—both geographically and functionally. In nonmetropolitan areas, this had caused a serious drain on already limited planning resources. In metropolitan areas, it had intensified confusion and lead to general duplication of effort. By encouraging the states to develop subplanning areas, A-95 sets the stage for a more complete geographic coverage of the Project Notification and Review System.[130] Applicants for federal assistance for activities planned on a multi-jurisdictional basis must also coordinate their planning with related programs in the area. This, of course, involves an identification of related activities, organizations, and coordinative agreements.[131] Such identification is essential to any systematic planning program.

In 1970, the President issued an Executive Order to require the General Services Administration and executive agencies to be guided by the policies of Title VIII of the Intergovernmental Cooperation Act of 1968 in the acquisition and utilization of land.[132] These agencies and departments are responsible for constructing installations throughout the country for research, national defense, and other purposes. The largest facilities are frequently placed in areas where the impact on surrounding land values and usage can be severe. Under the Executive Order the need for development and redevelopment of areas and new communities and the impact on social and economic conditions in the area must be considered. Government facilities are consolidated, where possible, and consideration is given to the availability of adequate low and moderate income housing. Facilities must be located in consultation with the State and local governments concerned. Federal agencies must coordinate and consult with each other concerning land needs.

THE ENVIRONMENT AND NATIONAL GROWTH

In the last decade, the rationale for a national growth policy has been based not only on economic development, ghetto dispersal, and better government coordination but also on environmental concerns.

In May 1969, President Nixon established the first organizational entity charged with taking a broad overview of environmental problems— the Cabinet-level Environmental Quality Council, chaired by the President.[133] It was still felt, however, that the Executive Office needed an independent organization concerned exclusively with environmental problems to propose new approaches for dealing with them. The Cabinet-level Environmental Quality Council was abolished by Reorganization Plan No. 2 of 1970, and was replaced by a Domestic Council in the Executive Office of the President. On January 1, 1970, President Nixon signed the National Environmental Policy Act.[134] That act established a national policy on the environment, placed new responsibilities on federal agencies to take environmental factors into account in their decision-making, and created a Council on Environmental Quality in the Executive Office of the President.

The act charges the Council with assisting the President in the preparation of an annual environmental quality report and in making recommendations to him on national policies for improving environmental quality. It gives the Council responsibility for appraising the effect of federal programs and activities on environmental quality.

The National Environmental Policy Act also requires federal agencies to take several significant steps. One is to include—in every recommendation or report on legislation and on other major federal actions significantly affecting the quality of environment—a detailed statement concerning the environmental impact of the action, adverse impacts that cannot be avoided, alternatives to the proposed action, the relationship between short- and long-term uses, and any irreversible commitment of resources involved. The

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detailed statements will include the comments of state and local environmental agencies as well as appropriate federal agencies with environmental expertise. The statements will then be made available to the Council on Environmental Quality, the President, and the public.

On March 7, 1970, the President issued Executive Order 11, 514.[135] Together with the two public laws, it empowered the Council to recommend to the President and to federal agencies priorities in environmental programs. The Council must also promote the development of indices and monitoring systems and advise and assist the President and the agencies in achieving international environmental cooperation. Taken together, the legislation and the Executive Order grant a broad charter to the Council. They also provide a mandate for reform in the manner in which federal agencies make environmental decisions—from initial planning to implementation.

The Executive Order further requires that federal agencies continually monitor their own activities to enhance environmental quality. The agencies must issue timely public information and conduct hearings, where appropriate, on federal plans and programs with potential environmental impact.

The evironmental statements required of the agencies add a vital step to the decision-making process. Federal agencies must now give full consideration to the environmental implications of their actions. This will permit federal, state, and local agencies to review the implications of federal action before the project is undertaken.

Thus, the federal government has begun to address itself to the environment as integral aspect of national growth and development.

On July 4, 1970, the Nixon Administration issued its first major report on proposals for national goals and growth.[136] The report was the work of the National Goals Research Staff appointed by the President. The Staff sought to forecast future developments, assess longer-range consequences of present social trends, measure the probable future impact of alternative courses of action, estimate the actual range of social choice, and summarize results of related state and federal research activities. The study concluded that "the major lesson to be extracted from the substantive problems reviewed here is the high desirability of an explicit growth policy with a relatively long-term perspective.[137]

In May 1970, the Administration also pursued its own policy efforts by establishing the White House Domestic Council.[138] The Council's principle functions are to define policy issues and devise proposals for dealing with them; to assess national needs; to provide the President with prompt advice in times of domestic crisis; to help set national priorities for allocating resources; and to maintain a check on programs and recommend reforms as needed. While its sole statutory mandate is the preparation of an urban growth policy report,[139] the Domestic Council has been inept in its efforts to guide, report on, and plan for national growth. This unfortunate state of affairs can be largely ascribed to Daniel Moynihan's departure from the Executive Department[140] and the resulting leadership vacuum.

A Congressional contribution, at least for urban areas, was the Urban Growth and New Community Development Act of 1970,[141] establishing a broad framework for a "national urban growth policy." The act called for the issuance of a biennial Presidential Report on Urban Growth, while providing new incentives for the development of new communities and inner-city areas. This statute was a partial response to the fragmentary way in which separate, but related, federal policies are now developed and implemented. Congress specified that urban growth policy should:

a. encourage the balanced use of physical and human resources in urban regions;

b. foster economic growth to reverse trends of migration which reinforce disparities among such regions;

c. treat comprehensively the problems of poverty and unemployment associated with disorderly urbanization and rural decline;

d. encourage equal housing opportunities for all;

e. revitalize existing communities and encourage planned, large-scale urban new community development;

f. strengthen the capacity of government institutions to contribute to balanced urban growth;

g. facilitate increased coordination in the administration of federal programs to encourage desirable patterns of urban growth; and

h. encourage the prudent use of natural resources and the protection of the physical environment.

The President responded to the Congressional Growth Report requirement by creating the Domestic Council Committee on National Growth Policy. During the last months of 1970, there was extensive debate and discussion over the course such a program should take and whether it should include ghetto dispersal and metropolitan housing plans.[142]

However, with the departure of Daniel Moynihan, expertise and leadership were missing, and the essential elements—ghetto dispersal and metropolitan housing plans—were dropped as "politically dangerous." The resulting policy was a patchwork of growth-related legislative proposals.[143] This patchwork policy was presented in a memorandum to the President from the Committee in late 1970.[144] The memo discussed alternatives and new areas of discussion related to growth policy. It debated a regional development approach as manifested in the Appalachian Regional Development Commission with a "growth centers strategy," selecting about 100 smaller areas with potential for growth or a need for development. Also advocated were location incentives for private industry to guide growth, a national development bank, a preferential procurement policy for "proper development," a federal facilities location policy, grants to universities in underdeveloped areas, and public land disposal for new town development.

By early 1971, Senator Abraham Ribicoff of Connecticut was appalled at the Administration's "benign neglect" and failure to develop a growth policy keyed to ghetto dispersal, the linking of jobs in the suburbs to the unemployed in the city centers, and metropolitan housing opportunities. Ribicoff's response was the Government Facilities Relocation Act of 1971,[145] which would require that adequate housing be available for low and middle income employees, both black and white, before a federal or state facility, or a federal contractor, could locate or expand in the community. At the same time, he introduced the Urban Education Improvement Act of 1971[146] as an incentive to suburban school districts, which felt that the provision of low and moderate income housing in their areas would cause increased taxes for the maintainance of existing levels of governmental services—particular in the area of education.

The remainder of 1971 saw little implementation, but debate increased over the manner in which the nation should fulfill its national purpose, while controlling its growth.[147]

RECENT HISTORY

An increasing but disjointed concern for developing a national growth policy has arisen during the last year. In February 1972, the President transmitted the first biennial report on national growth.[148] The report was the first of a series required by law, marking a significant milestone in the everexpanding role of the federal government in this area. Nevertheless, it was met with unfavorable reviews.[149] The most common criticism was that the report failed to face up to the dire need for an evaluation of priorities establishing broad national goals. Instead, the report questioned the very advisability of a comprehensive national urban growth policy and presented recommendations which were no more than a listing of President Nixon's legislative proposals for the previous year. This, of course, does not constitute a coordinated national growth policy.

Although it provided descriptive data on the distribution of blacks in metropolitan areas and their concentration in central cities, the report was eloquently silent about the nation's failure to provide equality of freedom for blacks and other minorities. For obvious political reasons, it failed to mention this administration's non-leadership with respect to integrated suburban housing.

Another deficiency of the report was the manner in which it glossed over any substantive consideration of the gross inequities of income distribution and poverty. Certainly any concerted effort to coordinate growth policies must be addressed to these essential issues.

In respect to the nation's housing, it is significant to note that, although a number of references were made to housing, nowhere did the report treat the problems related to the supply and quality of housing and to major housing policy considerations in the private and public sector. This omission is even more disconcerting in light of the fact that the report was required by Title VII of the Housing and Urban Development Act of 1970. It may be inferred from this "benign neglect" that the Administration's housing stance will remain one of promising much and delivering little.

In general, the study may be characterized as recognizing some problematic aspects of national growth, but avoiding the major problems confronting the nation. Moreover, its initiatives are, without exception, too little, too late, and too subordinated to the shackles of its 18th and 19th century value system. Its proposals are consistent with the Administrations racist "Southern strategy," frontier psychology, big business orientation, and constitutional constructionism.

In early March 1972, the need for control of national, and even worldwide, growth was documented by the publication of *The Limits To Growth*.[150] The book, prepared by the Massachusetts Institute of Technology, is a computerized forecast of doom. Basing its findings on a computerized prediction, the model investigates the growth of five major world factors—population, pollution, resources, food supply, and industrial output—and concludes by forecasting a disastrous, overpopulated, undernourished, overindustrialized, and depleted society by the year 2100.

The report—perhaps overly pessimistic, perhaps overly optimistic—has awakened us to the fact that, even if we develop our own national growth policy, it may be too late. Even if we develop our own national growth policy, international pressures from uncontrolled growth may wreck havoc with our future national well-being.

In July 1969, President Nixon called for the creation of a national Commission on Population Growth and the American Future to study the potential effect of population growth.[151] The Congress responded by enacting legislation establishing the Commission.[152] After two years of concentrated effort, the Commission concluded that, "in the long run, no substantial benefits will result from further growth of the Nation's population, rather that the gradual stabilization of our population through voluntary means

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would contribute significantly to the Nation's ability to solve its problems. We have looked for, and have not found, any convincing economic argument for continued growth." [153]

Thus, the Commission endorsed and documented specifics for a foundation of a national growth policy.[154]

While the report could have served as a major force in the development of a population segment of a national growth policy, it was lightly treated and, in large part, refuted by the President. By early 1972, thus, President Nixon had failed to propose any new initiatives toward the development of a national growth policy and had, in fact, de-emphasized the concept. In late May of this year, however, a dramatic turnabout seemed to occur. Presidential aide John Ehrlichman, in a memorandum to all Cabinet officers, asked for their contributions and response to a long series of questions that might help the White House develop such a policy.[155] Apparently, Ehrlichman was considering new legislation for the 93d Congress, priorities for the fiscal 1974 budget, and the preparation of the 1974 growth report required by the 1970 Housing and Urban Development Act.

Another development that indicates a greater public awareness was manifested in the Third Annual Report of the President's Council on Environmental Quality.[156] The study included a section on enviornmental forecasting, Citing the groundbreaking work of the Club of Rome [157] and Report of the Commission on Population Growth and the American Future,[158] the study noted the dangerous possibility that all the endeavors to date to preserve the environment may be inadequate to abate catastrophic consequences.

In recent months, social critics have advocated means by which the public's attention would be focused on the long-run consequences of the nation's failure to develop priorities and to plan for future growth. Dr. Philip Hauser, a noted commentator, stated:

"The creation of a Council of Social Advisors (in the Executive Office of the President) and a Presidential Social Report would be the most effective way to focus public attention on the needs in the social areas and to obtain the commitment of the American people to social goals." [159]

In September, the Senate responded with the passage of the Full Opportunities and National Goals and Priorities Act of 1972.[160] This act will, for the first time, formulate national goals and objectives for a national growth policy. The act creates a Council of Social Advisors, much like the Council of Economic Advisors, endowed with the duty of creating a "national priorities report." [161]

Another legislative effort contributing to the piecemeal creation of a national policy was the Rural Development Act of 1972.[162] When coupled with the Agricultural Act of 1970,[163] this act planted the seeds of a national growth policy for our rural areas. The new act confers the major responsibility to coordinate rural development upon the Department of Agriculture and provides several new authorities that will help improve rural economic opportunities and community life. The result should reduce the isolation of rural America, bolster agriculture, and relieve urban congestion by reducing rural migration to cities and by encouraging a more balanced national growth.

One proposal advocated as a key to successful management of the nation's growth has been the orderly management of the public and private lands. Over the last two and a half years, Congress has addressed itself to the task of breaking new ground in developing legislation to plan and manage land use on more than a local scale. Senator Henry Jackson was the first to propose a "national land use policy" bill.[164] The bill was again offered in this Congress. The Senate Committee on Interior and Insular Affairs, chaired by Senator Jackson, sought to fashion legislation to improve land use planning and management capabilities of federal, state, and local government. The Committee reported an amended bill late in the second session,[165] S. 632, as reported, provided federal technical assistance and a grant-in-aid program to the individual states to assist them in developing and improving their capacity for planning and management. The act also provided important new authority designed to improve state and federal coordination. The administration of the act is given to the Secretary of Interior through a newly created Office of Land Use Policy Administration. He would be assisted in the review of state land use programs by the heads of other federal agencies which have programs with significant land use impacts and by the Secretary of Housing and Urban Development. A National Advisory Board on Land Use Policy, composed of high-level representatives of those agencies, would serve as a regular source of advice to the Secretary of the Interior and as a means of communication and coordination among the various agencies concerning federal interests in land use policy.

A major purpose of the act is to assist states in developing a state planning process. The state planning process, required within three fiscal years of enactment, consists of adequate funding, competent staff personnel, a data and information base, and an appropriate planning agency at the state level. After the state has developed a state planning process and capability, it must develop, within five years, land use programs which concentrate on four categories of "critical areas and use of more than local concern." These areas and uses are considered to be of statewide interest because decisions concerning them have impacts on citizens, the environment, and the economy totally out of proportion to the jurisdiction and the interests of the local decisionmakers, the local zoning body, or land use regulatory entity. Absent any form of state regulatory control or oversight, there may be no means of mitigating the adverse effects upon the regional, state, or national populace, economy, or environment which may result from decisions made upon purely local consideration. These four categories of areas and uses of more than local concern are: (1) areas of critical environmental concern (beaches, flood plains, wetlands, historic areas); (2) key facilities (major airports, highway interchanges, recreational lands and facilities, and facilities for the development, generation and transmission of energy); (3) development and land use of regional benefit; and (4) large-scale development (major subdivisions, new towns, or industrial parks).[166]

The federal review of state progress in developing a "planning process" and a "land use program" does not, for the most part, invite scrutiny of the substance of that process or program. The primary focus of the review is whether the state has authority to develop its planning process and develop and implement its land use program and whether it is making good faith efforts to do so. This is in keeping with the act's purpose to encourage better land use decision-making at the state and local levels, without providing substantial new land use decision-making authority on the federal level.

To encourage state governments to assume responsibility for the major land use activities occurring within its boundaries, the act creates two sanctions. First, grant-in-aid money authorized by the act may be withheld upon non-compliance. The second sanction is a phased withholding of funds under three other federal programs (airport development funds, primary and secondary federal-aid highway funds, and Land and Water Conservation Fund moneys).[167] This sanction may be invoked only after five fiscal years, and, when the state land use program again meets the requirements of the act, any funds withheld must be disbursed to the states. The three programs for which funds would be withheld are deemed to have the most significant long-range and irreversible impacts upon land use patterns because of the exceptional influence they have on public and private development.

The act also encourages coordinated planning and management of federal lands and adjacent non-federal lands. The federal, state, and local governments are required to provide for compatible land uses on adjoining lands under their respective jurisdictions. In addition, short term Ad-Hoc Joint Federal-State Committees composed of representatives of affected federal agencies, state agencies, local governments, and user groups may be established by the Secretary of the Interior to study general or specific conflicts between uses of federal lands and uses of adjacent non-federal lands. The Secretary is directed to resolve such conflicts, or, where he lacks the requisite authority, to recommend legislative solutions to Congress.

In the view of the Senate Committee on Interior and Insular Affairs, the Land Use Policy and Planning Act of 1972 was the best means to assist local, state, and federal governments in moving from an era of ad-hoc, case-by-case, crisis-to-crisis, land-use decision making to an era of long range planning and management.[168] But the act is patently inadequate. It does not mandate comprehensive regional or statewide planning. The Interior Committee maintained that "most states now lack and probably could not develop in less than five to ten years the capacity to undertake and implement a comprehensive planning effort for their land resource base." [169] The Committee's conclusion was: "Accordingly, S. 632 separates out the most critical and far-reaching of land use activities—those which provide the framework, the structure, and the major influences in shaping local, regional, and state land use patterns—and provides assistance to the states to focus available resources and planning expertise on such activities." [170]

The result, in essence, was a "cop-out." In the past, similar zoning and planning of our lands has proven inadequate on the local level. Why should it now succeed on the national level? Indeed, Senator Gordon Allot, ranking minority member on the Committee, has depicted the bill as a large dole to the states with little responsibility exercised in return.

"It is not the intent of the Committee that this proposal have the effect of transferring a significant measure of authority over what have traditionally been local and State decisions on certain land use matters to the Federal government." [171]

Yet, the bill, as reported, was still an evolutionary departure from the traditional practice of private and local control over the use of land. Passage of the legislation came only after the Senate had substantially weakened the reported bill by removing some of the proposed economic sanctions against the states (that would have withheld part of the federal highway, airport, and water conservation funds from states that failed to comply with the new land use program) and by reducing the financial scope of the program.

Senate passage of the bill came, but only after two days of haggling between Senator Jackson and Senator Edmund Muskie—who failed in his attempt to amend the bill by placing its administration under the White House Domestic Council. Senator Muskie was also perturbed that there were no limits, guidelines, or goals that defined a national land use policy. He argued that the bill had "no substance" and warned that it could result in "confusion, lack of guidance, and lack of leadership." [172] Legislation formulating

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a national land use policy for our public lands was even less successful in the Congress.[173]

The area of greatest potential accomplishment in the development of a national growth policy is in the field of housing. However, since the passage of the Housing and Urban Development Act of 1970,[174] no major housing legislation affecting national growth has emerged. Some critics believe that the failure to produce substantial changes in the federal law in the housing and urban development field after two years of struggle is linked to several factors: (1) usually close ties between the commercial interests which want to see programs essentially unchanged, and members of Congress responsible for drafting legislation; (2) failure of the Nixon Administration to promote and work for new housing and civil rights policies; and (3) the common background of many housing experts in Congress, in the Department of Housing and Urban Development, and in the housing industry.[175]

The struggle for a major housing bill came to a head in late September of this year. While, on March 2nd of this year, the Senate passed its version of the Housing and Urban Development Act of 1972,[176] the House Banking and Currency Committee did not report out its bill until too late in the Session for adequate consideration. Both measures provided for minor changes in the field, including block grants for certain community development programs and consideration of most of the Department of Housing and Urban Development's planning programs.

Both bills were notable for their exclusion of initiatives suggested in other legislation that would have mandated a better quality of national development and growth. One proposal would have created metropolitan and state housing agencies to program, but not develop subsidized housing.[177] Another proposal excluded from the bill was the creation of state metropolitan development corporations to develop the nation's decaying rural and depressed urban areas.[178] A third proposal would have aided in financing such development by creating an Urban Development Bank.[179] This provision would have broadened the source of funds and would have decreased the costs of capital funds for state and local government by providing long term development loans and technical assistance to help them meet the need for essential public works and community facilities including the acquisition of land.

CURRENT PROPOSALS

Current comprehensive proposals for a national growth policy are few. But even so, there is a broad diversity of opinion over the methods of controlling the Nation's growth.

One approach is embodied by the American Law Institute's Model Land Law Development Code.[180] The project is an attempt to provide states with model legislation that would supplant existing zoning programs and subdivisions controls by proposing a new framework for the organization of land development regulations. This framework would consist of a state land planning agency coupled with local land development agencies. This proposal would, however, only develop slight similarities among fifty state variations of a national growth policy.

A recent legislative proposal[181] by Senator Joseph Montoya of New Mexico seeks to promote a national policy by providing a "physical infrastructure" for growth through a national public works investment program. That program would also be keyed to regional development commissions and districts throughout the country. The Montoya proposal would establish a productive precedent by formulating guidelines for federal public works projects. This would be a first step in making the federal government the nation's principal developer.

Proposals for a national growth strategy have come from a multiplicity of sources. In January 1972, the American Institute of Architects (AIA) released a national policy statement called, "America At the Growing Edge: A Strategy for Building A Better America."[182] It urged that governments provide one million acres of land at an estimated cost of $5 billion for community development in both urban-core areas and the metropolitan periphery. The land would remain permanently under public ownership with development under the control of federal, state, and local governments. Certain portions of the land would be reserved for recreation, open space, and housing. Leasing, rather than outright sales, to private developers would occur after development plans had been made.

The proposed development of the land would set the pace and standards for a national growth policy through a special impact program involving 60 urban regions and accommodating a third of the nation's anticipated growth in the next 50 years. With the assumption that this growth will occur in urban areas, the statement urges that priority be given to rebuilding the inner city on a large scale. The building block of the enormous renewal plan proposed by the AIA is a "growth unit"—defined as a neighborhood ranging from 500 to 3000 housing units. The growth unit would also be large enough to encourage new technology in municipal services, while providing for the personalization of life found in small communities.

Although the start of a new growth unit program would begin, on vacant land, to provide relocation for those within an older neighborhood in need of rebuilding, the statement also calls for state control of building and zoning incentives for development in certain remote geographical areas, revenue sharing, and a public works investment program.

Herbert Franklin, one of the nation's leading urbanologists, has advocated, on behalf of the National Urban Coalition, a National Metropolitan Development policy.[183] The general policy goals would be: (1) to provide land for the development and redevelopment of metropolitan America at the appropriate scale, price, and location for equitable and efficient growth; (2) to provide services at high standards for the development process; (3) to conserve recreational land within, and at the fringe of, metropolitan growth areas; and (4) to articulate the physical standard at which metropolitan land should be developed and serviced. To spearhead acquisition of land and its development in line with the policy goals, Franklin argues for the creation of a new instrumentality of national government with counterparts on the metropolitan level—a Metropolitan Development Corporation (NMDC) and local Metropolitan Development Corporations (MDC's)—as its implementing bodies.

The most extensive and lucid legislative proposal pertaining to national growth policy in the Congress is a draft of a "Balanced National Growth and Development Act of 1972," to be introduced by Senator Hubert Humphrey.[184]

The bill is committed to an urban-rural balance in contrast to past initiatives which have concerned themselves primarily with the rapid growth of our metropolitan areas. But it also goes beyond a logical extension of past rural development legislation. The act would establish specific national goals for a national growth policy including levels of wealth, environmental quality, population, land use, transportation facilities, communications, and energy consumption for geographical regions of the nation. The act would also create an Office of Balanced National Growth and Development consisting of relevant members of the Cabinet and independent federal agencies. The Office would serve as the point of coordination and direction of all federal and federally assisted programs for growth planning and development.

The Office would also prepare an annual report on Balanced National Growth and Development mandated by the act to incorporate the reports required under Title VII of the Housing and Urban Development Act of 1970,[185] Title I of the Airport and Airway Development Act of 1970,[186] and Title IX of the Agricultural Act of 1970.[187]

A novel section of the act would have this new Office replace the ineffective Domestic Council, which has been stagnant since the departure of Daniel Moynihan from the White House.

The new version of the Domestic Council would be strengthened substantially by consolidating in one office all functions of the Office of Management and Budget under provisions of Title IV of the Intergovernmental Cooperation Act of 1968, Section 204 of the Demonstration Cities and Metropolitan Development Act, Section 102(2) of the National Environmental Policy Act of 1968, along with the new functions embodied in this act.[188]

The new Office in the White House would also become the nation's planning board. The bill proposes to consolidate many existing federal planning and planning assistance programs including a complete comprehensive planning and planning assistance package. With this new responsibility, the Office would establish new federal uniform planning requirements for states and regional bodies to qualify for grants for planning.

One seemingly complex, and perhaps duplicative, aspect of the Humphrey draft bill is the creation of an Intergovernmental Council on National Growth and the American Future. This section of the bill would replace the old, but most efficient group—the Advisory Commission on Intergovernmental Relations—with a newly-created, but somewhat more comprehensive entity in the hope that it can truly compel intergovernmental cooperation.

Further, the Humphrey bill would authorize the creation of a Joint Congressional Committee on Balanced National Growth and Development, a Congressional Office of Policy and Planning, a Foundation on National Growth and the American Future to spur, rather than compel, private participation, and an agency for population and demographic analysis within the Bureau of the Census.

The only legislation introduced in the 92d Congress specifically mandating the development of a national growth policy is the Hartke National Growth Policy Planning Act of 1972.[189]

This act calls for the formulation of a national growth policy to effectuate economic development, population control, housing distribution, the use of natural resources, the protection of the environment, and the location of government and corporate facilities in a manner and magnitude that will increase this nation's potential for survival. The act establishes a national growth policy planning board to coordinate the efforts of federal, regional, state, and local governments in controlling and managing growth. An effective research, planning, and coordinating agency on the national level is envisioned for the formulation of goals and guidelines for the nation's growth in the next century. The act also creates a program of federal financial and technical assistance to state and interstate agencies in developing statewide and regional growth policy planning as elements of a national policy.

In light of the increasing public frustration and concern about the lack of a con-

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certed national policy, it was felt that an effort should be made to renew the debate over the country's future growth. The National Growth Policy Planning Act was introduced to do just that.

The act, while unique in its creation, was deliberately simple in design. It was my belief that there must be some institution high enough in government, and yet somewhat removed from the typical bureaucracy, to continue planning and implementing a future vision for the nation, and that the public must be adequately informed of the mechanism to assuage possible fears of excessive government control often associated with proposals of federal "social planning."

I sought to accomplish this by emphasizing grants to state and regional authorities for growth policy planning and providing for extensive public participation in national planning. Indeed the success of a national growth policy will be dependent on the "soft" aspect of it—whether it is accepted by the people and the degree of their participation—rather than the "hard" aspect of guidelines, goals, and institutions.

The response to the bill was overwhelming,[190] but it was soon realized that the bill was too simplistic to cover such a complex and interrelated problem as the nation's growth. I will offer a comprehensive proposal in the 93d Congress. Others in the Congress have also started to respond.[191] Hopefully, together we can formulate a national growth policy.

PROPOSED NATIONAL GROWTH POLICY

The failing of Congressional legislative endeavors to date has been their narrow scope. Planning for the growth of the country encompasses a solution to the myriad of complex and interrelated problems that must be addressed by a comprehensive national growth policy.

Any truly constructive legislative effort must call for the development of a national growth policy at the highest level of government. Such a policy must be implemented by the Executive Office of the President and must replace the presently inefficient Domestic Council. A new Council on National Growth and Development would combine the responsibilities of the Council on Environmental Quality, the old Domestic Council, the Advisory Commission on Intergovernmental Relations, the Office of Management and Budget, the Department of Housing and Urban Development's comprehensive planning assistance program, the now-defunct Advisory Commission on Population Growth and the American Future, and the old National Goals Research Staff.

The Council would have the following functions: (1) setting national goals for growth and development including specific population policy goals; [192] (2) coordinating federal programs; (3) reviewing regional, metropolitan, and state growth policy initiatives for compliance with federal guidelines; (4) developing depressed areas of the country; (5) administering incentives to and sanctions on, local units of government to plan and manage growth; and (6) preparing an annual report on national growth and development.

Such "constructive" legislation should also provide grants-in-aid for the creation of federal but decentralized regional planning and development commissions much like the Appalachian Regional Development Commission.

While it is extremely difficult to limit or stop growth in certain areas, a more critical problem is the development of desolate areas and the redevelopment of areas that have been the product of national neglect.

A proposed national growth policy and development act would provide for the creation of a National Development Corporation (NDC). The NDC would have two main functions: (1) to coordinate the activities of metropolitan, regional, and state development corporations; and (2) to act as the developer of last resort where federal incentives and sanctions fail to spur action to provide the necessary facilities and conditions for the public health, safety, and welfare. Certain areas might be declared "national disaster development areas."

Another component of this congressionally shaped growth policy would concentrate on consolidating and simplifying a number of complex and overlapping programs of federal assistance to communities and neighborhoods.

A special emphasis should be placed on federal incentives for the creation of state and metropolitan housing agencies. This would provide not only a sufficient supply of housing for people of all incomes and lifestyles but also would facilitate racial integration of suburban and rural areas by the dispersal of housing opportunities.

To broaden the sources and decrease the cost of capital funds for state and local governments, I believe that an essential element of a "cost possible" national growth policy would be the creation of a national development bank with regional and urban branches.[193] The development bank be modeled after central banks throughout the world and similar to the World Bank. It would, however, be dissimilar from current banking practices in that its primary emphasis would be uplifting depressed areas rather than making profit.

As an integral component of a national growth policy, a metropolitan land bank should be created as an arm of the development bank and development corporations.[194] The urban land bank would provide metropolitan authorities with federal assistance in acquiring, managing, and disposing of land according to the preconceived metropolitan plan. The key benefits derived from this affirmative role would be the advance acquisition of land for public purposes, avoidance of the expenses of urban sprawl, and improved management and control of the land market. By providing an infrastructure for orderly urban development, the increased value of land caused by government activities could be recaptured and applied to the costs of the program.

Another area of tremendous potential concerns the location of federal and corporate facilities. Prior to the location of any federal facility or the initiation of an activity affecting national development, federal departments and agencies should be required to file a report with the Council on National Growth and Development. The report would be similar to the environmental impact statements required by the National Environmental Policy Act. The report would establish the proposed activity's consistency with a balanced national growth policy—its environmental and economic impacts and its general effect on regional development and the costs involved. Private corporations would also be required to comply with these standards.

Finally, federal procurement policies should be integrated into a scheme of national growth management. Regulations could be issued by the Council on National Growth and Development to assure that, in any federal procurement above certain prescribed amounts, consideration would be given to balanced national growth and development policies. And the regulations would also provide for the use of alternative sources of procurement if costs are not excessive. In this manner, the purposes of the act would be promoted and the criteria for determining such considerations would be established.

CONCLUSION

In *The Limits of Growth*, an interesting riddle is offered to illustrate the danger of inaction in developing a realistic growth policy:

"Suppose you own a pond on which a water lily is growing. The lily plant doubles in size each day. If the lily is allowed to grow unchecked, it would completely cover the pond in 30 days, choking off the other forms of life in the water. For a long time the lily plant seems small, so you decide not to worry about cutting it back until it covers half the pond. On what day will that be? On the twenty-ninth day, of course. You have one day to save your pond." [195]

Planning, coordination, and foresight are urgent and mandatory if we wish to check the exponential growth of a society almost out of control.

The sole hope of the future lies in a complete national commitment, from the highest level to the lowest. As we have seen, the early, "benevolent" history of land use policy failed miserably. Likewise, local sanctions were grossly inadequate. The efforts of three national leaders—Presidents Eisenhower, Kennedy, and Johnson—only confused the issue and provided short-term remedies for a long-term problem. The promises embodied by the Nixon Administration have proven false. Confusing structures and a myriad of committees have been created to combat a dilemma that should have received the highest possible federal priority. But a federal effort by itself it simply not enough. So too, action on the state and local level, by itself, cannot abate the crisis. National action, and only national action, will prove successful in devising and implementing a viable growth and development policy. Otherwise, we may have only one day to save ourselves and our country.

FOOTNOTES

*A.B. Evansville College; J.D. Indiana University Law School; United States Senator from Indiana. The author gratefully acknowledges the research and writing assistance of Bruce Johnson, Legislative Counsel to the Senator.

[1] A. Toffler, Future Shock 2 (Bantam ed. 1970).

[2] Population and the American Future: The Report of the Commission on Population Growth and the American Future 16 (1972) [hereinafter cited as Population].

[3] Id. at 24. These figures are based on the U.S. Bureau of the Census, Current Population Reports, Projections of the Population of the United States by Age and Sex: 1970 to 2000 (Ser. P–25, No. 470). See also Report of the National Goals Research Staff, Toward Balanced Growth: Quality With Quantity 186 (1970).

[4] Population, supra note 2, at 36–37.

[5] See generally Hearings on Effects of Population Growth on Natural Resources and the Environment, Before a Subcomm. of the House Comm. on Government Operations, 91st Cong., 1st Sess. (1969).

[6] Hodge & Hauser, The Challenge of America's Metropolitan Population Outlooks 1960–85, at 25–27 (1970). These overall figures obscure some striking regional differences. In the older cities of the Northeast and North Central Regions, blacks would continue to be very highly concentrated in the central cities, the percentages being 82 and 89 respectively, representing little change from 1960.

[7] National Advisory Commission on Civil Disorders, Report 1 (1968).

[8] See Equal Employment Opportunity Commission Memorandum, Employment Discrimination by Relocation of Plant and Corporate Headquarters (July 7, 1971); Suburban Action Institute, Open or Closed Suburbs; Corporate Relocation and the Urban Crisis (1970); Blumrosen, Duty to Plan for Fair Employment; Plant-Relocation in White Suburbia, 25 Rutgers L. Rev. 383 (1971); Sullivan, Regional Planning and Economic Dispersal Programs in Great Britain: The Exclusive Goal of Balanced Growth, 23 Stanford L. Rev. 903 (1971).

[9] Sager, Tight Little Islands: Exclusionary Zoning, Equal Protection and the Indigent, 21 Stanford L. Rev. 767 (1969); Sager, Exclusionary Zoning: Constitutional Limita-

tions on the Power of Municipalities to Restrict the Use of Land, a paper prepared for panel and workshop discussion at the June 8–11, 1972 American Civil Liberties Union Biennial Conference at the University of Colorado, Boulder, Colo.; Comment, Discriminatory Zoning: Legal Battleground of the Seventies, 21 Amer. U.L. Rev. 157 (1971). Note, Segregation and the Suburbs: Low Income Housing, Zoning and the Fourteenth Amendment, 56 Iowa L. Rev. 1298 (1971).

[10] Hearings On National Land Use Policy Before the Senate Comm. on Interior and Insular Affairs, 92d Cong., 1st Sess., pt. 1, at 98 (1971).

[11] See generally Senate Comm. on Interior and Insular Affairs, Land Use Policy and Planning Assistance Act of 1972, S. Rep. No. 92–869, 92d Cong., 2d Sess. 33–43 (1972).

[12] B. Hibbard, A History of Public Land Policies 7 (1960 ed.) [hereinafter cited as Hibbard]. See also, R. Robbins, Our Landed Heritage: The Public Domain 1776–1936, (1942), and generally E.L. Peffer, Closing of the Public Domain (1951).

[13] Hibbard 32–33.

[14] 28 J. Cont. Cong., 275 (1787). For an excellent treatment of the 1785 Ordinance, see V. Carstensen, The Public Lands (1968).

[15] Hibbard 83. See also C. F. Emerick, The Credit System and the Public Domain (1899).

[16] For a comprehensive analysis of Federal land policies in the 19th century, see H. George, Our Land and Land Policy (1901).

[17] See generally Hibbard, Chapter IV, at 56.

[18] Udall, Toward A National Land Use Policy for Urban America, 12 Ariz. L. Rev. 733–36 (1970). See also Bidwell & Falconer, History of Agriculture in the Northern United States, 1620–1860 (1941), and Gray, History of Agriculture in the Southern United States to 1860 (1931).

[19] Hibbard 171–98.

[20] 12 Stat. 392 (1862), as amended, 43 U.S.C. §§ 161–277 (scattered sections) (1970).

[21] Platform of the Free Soil Democrats (1848), cited in Hibbard at 357.

[22] Id.

[23] Hibbard 408–09.

[24] For a comprehensive treatment of western railroad growth, see V. Carstensen, The Public Lands 121–80 (1968) [hereinafter cited as The Public Lands].

[25] Id.

[26] F. Norris, The Octopus (1928).

[27] The Public Lands 135.

[28] 19 Stat. 377, as amended, 43 U.S.C. §§ 321–323 (1970). See also C. Haar, Land Use Planning 29 (1959), and R. P. Teele, Irrigation in the United States (1915).

[29] Hibbard 424–55.

[30] See M. Clawson & B. Held, The Federal Lands: Their Use and Management 27 *et seq.* (1957).

[31] *Id.*

[32] *Id.*

[33] 26 Stat. 1103 (1891), as amended, 16 U.S.C. § 471 (1964). See also J. Ise, United States Forest Policy (1920).

[34] 48 Stat. 1269 (1934), as amended, 43 U.S.C. § 315 (1970).

[35] 49 Stat. 1976 (1936), as amended, 42 U.S.C. § 315F (1970).

[36] For general information, see statement of Russell Train, Chairman, Council on Environmental Quality, Hearings on National Land Use Planning Before the House Comm. on Interior and Insular Affairs, 92d Con., 1st Sess., pt. 1, at 101 (1971).

[37] Id.

[38] R. Anderson, 4 American Law of Zoning, § 26.01 (1968).

[39] See note 36, supra.

[40] 272 U.S. 365 (1926).

[41] Exec. Order No. 7065, June 7, 1935.

[42] See D. Hagman, Urban Planning and Land Development Control Law 20 (1971) [hereinafter cited as Hagman].

[43] National Resources Board Report 89–252 (1934). See also Hagman 20.

[44] National Resources Committee, Land Planning Committee, Supplementary Report (various dates 1935–1938). See also Hagman 20.

[45] Hagman 20–21.

[46] The National Resources Board was created by Executive Order and, after some interim reorganization and change in name, was abolished by Congress by Act of June 26, 1943 Pub. L. No. 78–90, 57 Stat. 169.

[47] Franklin and Craig, USA: The Third Century—Guiding the Growth of a Metropolitan Nation (July 31, 1972) (A National Urban Coalition draft memorandum).

[48] Id.

[49] Id.

[50] Id.

[51] See *Senate Hearings, supra* note 10, at 99.

[52] See Report of the Nat'l Comm. on Urban Problems, Building of the American City, H.R. Doc. 91–34, 91st Cong., 1st Sess. (1968) [hereinafter cited as American City].

[53] See note 9, supra and Ross, Land Use Control In Metropolitan Areas—The Failure of Zoning and A Proposed Alternative, 45 S. Cal. L. Rev. 335 (1972).

[54] Id.

[55] Id.

[56] Council on Environmental Quality, The First Annual Report 186 (1970) [hereinafter cited as First CEQ Report].

[57] Id.

[58] Id.

[59] American City 23.

[60] First CEQ Report 196.

[61] American City 231.

[62] Haskell, Contractual Devices to Keep Undesirables Out of the Neighborhood, 54 Cornell L. Rev. 24 (1969).

[63] See generally C. Clark, Covenants and Interests Running With the Land (1947).

[64] First CEQ Report 188.

[65] Id.

[66] See, e.g., 16 U.S.C. § 797 (1971), 33 U.S.C. §§ 401, 403 (1970).

[67] Congressional Research Service-Library of Congress, For Senate Comm. on Gov't Ops., 92d Cong., 2d Sess., Toward A National Growth and Development Policy: Legislative and Executive Actions in 1970 and 1971 63–64, 70–72 (Comm. Print. 1972).

[68] Advisory Commission on Intergovernmental Relations, Metropolitan Fiscal Disparities 227 (1967).

[69] Id. See generally Advisory Commission on Intergovernmental Relations, Fiscal Balance in the American Federal System (1967).

[70] American City 241.

[71] Council Report 188–89.

[72] See note 11, supra at 35.

[73] The Depressed Areas Act, S. 2663, 84th Cong., 1st Sess. (1955). The bill provided for rapid tax amortization of new plants, including equipment and machinery, for firms in rural areas. It also set up two revolving funds: one for industrial and commercial loans for urban and rural areas, the other for the construction of public facilities. There were additional authorizations for grants to reduce the costs of public facilities and to finance job-training programs.

[74] *See generally* S. R. Levitan, Federal Aid to Depressed Areas (1964) [hereinafter cited as Levitan] and Levin, *The Economic Development Districts—New Planning Regions,* 3 Urban Affairs Q. 80–102 (1968).

[75] L. Rodwin, Nations and Cities: A Comparison of Strategies for Urban Growth 223 (1970) [hereinafter cited as Rodwin].

[76] Area Redevelopment Act of 1958, S. 3683, 85th Cong., 2d Sess. (1958), was signed on August 25, 1958 by the Vice-President and sent to the President.

[77] Presidential pocket veto, noted 104 Cong. Rec. 19,588 (1958).

[78] Rodwin 224.

[79] Area Redevelopment Act of 1959, S. 722, 86th Cong., 1st Sess. (1959).

[80] Rodwin 224. In 1956, John Kennedy had steered the original Douglas bill through the Senate. In 1955 he had sponsored a version of the Trade Adjustment Act which contained some of the provisions of the second bill Douglas had introduced toward the closing days of the 84th Congress.

[81] Area Redevelopment Act of 1961, S. 1, 87th Cong., 1st Sess. (1961).

[82] Pub. L. No. 87–27, 75 Stat. 47 (1961), *as amended,* 42 U.S.C. §§ 2501–512 (1970).

[83] Levitan 123. The loans could cover 65 percent of the investment in land, buildings, and equipment; and interest was based on Treasury borrowing rates plus a small service fee and insurance charge. Applicants had to show that funds could not be secured from conventional sources. They also had to supply 10 percent of the needed capital. This "local participation" requirement was burdensome for it made repayment of the local investment subordinate to the repayment of the ARA loan, and in effect obliges the local community to support the program via a long-term deferred loan, if not a subsidy.

Public loans could be made for any purpose which might help to attract industrial and commercial firms. But for the public loans, too, there had to be evidence that the funds were not otherwise available at reasonable terms.

[84] *Id.* at 124.

[85] Pub. L. No. 87–658, 76 Stat. 541 (1962), *as amended,* 40 U.S.C. § 462, 42 U.S.C. §§ 1492, 2641–643 (1970). Congress coupled this authorization with standby authority for tax reduction in an attempt to provide immediate jobs in communities faced with substantial unemployment. One-third of the funds were for rural and small urban areas. Large areas were eligible if the unemployment rate exceeded 6 percent. Projects had to serve essential public needs and not conflict with local land-use plans. Levitan 152–54.

[86] *See* note 73, *supra.*

[87] Levitan 109. Eligibility depended on several criteria spelled out in the legislation. However, the administrator was also authorized to designate areas based on other criteria that might appear appropriate. For urban areas, eligibility was based on a sliding scale of excess unemployment above the national average. Rural areas were designated on the basis of income levels and manpower.

[88] Rodwin 227.

[89] Levitan 109.

[90] *Id.*

[91] Pub. L. No. 89–136, 79 Stat. 552 (1965), as amended, 42 U.S.C. §§ 3121–132 (1970). The most significant modifications of the machinery concerned loans and grants for public facilities, i.e.: 1) provision of 50 percent direct grants, plus as much as 30 percent more in supplementary grants for projects involving immediate economic benefits, such as water and sewer projects, and access roads for specific sites in industrial areas; 2) to enable EDA to assist projects not otherwise financially feasible, loans for the public works programs were more specifically designed to help the local community raise their matching share of the cost, "not an uncommon situation in areas requiring assistance the most—such as Alaska, the Cumberland Plateau, the Appalachian Highlands and the Mississipi Delta region." Statement of E. P. Foley, Hearings Before the Special Subcom. on Economic Development Programs of the House Comm. on Public Works, 89th Cong., 2d Sess. 10 [hereinafter cited as Foley].

[92] *Id.*

[93] Foley 10.

[94] The area could be either a county, a labor area as defined by the Department of Labor, a city of over 250,000 population, or an Indian reservation of at least 1,000 persons.

[95] Substantial unemployment was defined to be a 6 percent or higher annual average rate during the most recent calendar year and 50 percent above the national average for three of the last four years or 75 percent

above for two of the last three years, or 100 percent above for one of the preceding two years. Foley 16. Lack of employment opportunity was interpreted administratively to be a 25 percent or more net population loss and 50 percent or less of the national median family income. *Id.* at 16.

[96] See generally Rodwin 224.

[97] In addition to the regional commission for Appalachia which was set up under separate legislation (the Appalachian Regional Development Act of 1965), regional commissions were established for the Ozarks, the Four Corners Area of the Southwest, the Upper Great Lakes, New England, and Alaska.

[98] For example, the central office of EDA has contracted for a series of studies summarizing the state of the art of regional economic development. It has also contracted for the development of an information data system which will record and predict public investment expenditures on the county by county basis and it is compiling information on the many different types of federal programs which have a significant impact on regional economic development. Foley 23.

[99] Foley 24.

[100] *See* E. P. Foley, The Achieving Ghetto 112–15 (1958). As stated by the former head of the program, EDS's aim was "to provide opportunities at the major growth centers within a region [in order] to minimize the social cost of migration. From the standpoint of the individual, it is far better to move as far as 200 to 300 miles to a viable city within his region of birth than it is to migrate to a metropolis a thousand miles away." *See also* Rodwin 233.

[101] Pub. L. No. 89–754, 80 Stat. 1255 (1966), *as amended*, 42 U.S.C. §§ 3301–302 (1970).

[102] Pub. L. No. 90–448, 82 Stat. 476 (1968), *as amended*, codified in scattered sections of 5, 15, 18, 20, 31, 38, 40, 42, 49 U.S.C. (1970).

[103] Rodwin 257.

[104] *See* note 102, *supra*.

[105] Testimony of M. Zuckerman, Hearings before Subcomm. on Housing and Urban Affairs of the Senate Comm. on Banking and Currency, Proposed Housing Legislation for 1968, 90th Cong., 2d Sess., 749–805 (1968).

[106] The Commission was established in 1959. Pub. L. No. 86–380, 73 Stat. 703 (1959), *as amended* 42 U.S.C. §§ 1271–1279 (1970).

[107] Advisory Commission on Intergovernmental Relations, Urban and Rural America: Policies for Future Growth (1968).

[108] *Id.* at 72. The report concluded that "[w]hile the commission believes that the immediate needs of our troubled cities and metropolitan areas and poverty-stricken rural areas is pressing, attention must also be given to the longer range objective of encouraging urban growth patterns that will on the other hand conserve our natural resources, while providing maximum social and economic opportunity to all citizens. With the establishment of a national policy for guiding the location and character for future urban growth involving the three levels of government and the private sector, creative opportunities exist to provide alternatives to continued concentration of people in existing densely populated areas and to break away from the conventional thinking and approaches to urban development."

[109] *Id.* at 131.

[110] Pub. L. No. 90–577, 82 Stat. 1098 (1968), as amended, 42 U.S.C. §§ 4201–244 (1969).

[111] 42 U.S C. § 4231 (1968).

[112] 40 U.S.C. §§ 531–35 (1969).

[113] Exec. Order No. 11,452, 34 Fed. Reg. 1223 (1969).

[114] *Id.*

[115] *Id.*

[116] Moynihan, Toward a National Urban Policy, The Pub. Interest 3–20 (Fall 1969). See generally Lilley, Romney Faces Political Perils With Plan to Integrate Suburbs, 2 Nat'l J. 2251–253 (1970).

[117] J. Kain, Postwar Changes in Land Use in the American City (1969).

[118] J. Kain, Alternatives to the Guilded Ghetto (1969).

[119] Rodwin 224. *See also* National Committee on Urban Growth Policy, the New City (1969).

[120] Message from the President of the United States, Relative to Population Growth, House of Representatives, H.R. Doc. 91–139, 91st Cong., 1st Sess. 4 (1969). *See also* J. P. Pickard, Trends and Projections of Future Population Growth in the United States (1969).

[121] S. 3328, Balanced Urbanization Policy and Planning Act, 91st Cong., 1st Sess. (1969).

[122] 115 Cong. Rec. S. 16272–73 (daily ed. Dec. 10, 1969).

[123] *See* note 109, *supra*. Title IV, among other things, directs the President to "establish rules and regulations governing the formulation, evaluation, and review of Federal programs and projects having a significant impact on area and community development." The basic objectives of this mandate center about the importance of sound and orderly development of urban and rural areas on the economic and social development of the nation. Section 401(b) of the Act requires that "all viewpoints—national, State, regional, and local—shall, to the extent possible, be taken into account in planning Federal or federally assisted development programs and projects.' Section 401(c) states, moreover, that "to the maximum extent possible, consistent with national objectives, all Federal aid for development purposes shall be consistent with and further the objectives of State, regional and local planning."

[124] *See* note 100, *supra*. Section 204 requires that applications for federal assistance to a wide variety of public facilities type projects in metropolitan areas must be accompanied by the comments of an area wide comprehensive planning agency as to the relationship of the proposed project to the planned development of the area.

[125] 83 Stat. 852 (1970). Section 102(2)(c) requires that federal agencies prepare statements evaluating the impact of any actions they may take that significantly affect the environment. Such statements are submitted to the Council on Environmental Quality. Provision is made for inputs to these environmental impact statements by State and local governments.

[126] *See* testimony of A. Weber, Associate Director: Office of Management and Budget, Executive Office of the President, Before U.S. Commission on Civil Rights, Washington, D.C,. June 16, 1971.

[127] The term, "clearinghouse" is used to fully reflect the functions of these agencies: (a) to identify the relationship of any project to statewide or areawide comprehensive plans: (b) to identify the relationship of any project to the plans or programs of particular state agencies or local governments.

[128] The Circular also covers HUD housing assistance and mortgage insurance programs for projects of certain minimum sizes:

In subdivisions, 50 or more lots;

In multi-family projects, 100 or more dwelling units;

In mobile home courts, 100 or more units; and

In college housing, accommodations for 200 or more students.

The review process under the PNRS has been different for these projects. Under HUD housing assistance procedures, a developer submits what is, in effect, a preliminary application to a HUD area or insuring office. The application contains a description of the project, detailed enough for HUD to evaluate it. Evaluation is made, and the developer is notified as to whether the project appears approvable for mortgage insurance commitment or other support. Even if FHA mortgage insurance is not going to be sought, some mortgage lenders will require a favorable FHA report before they will make a construction loan.

The A–95 review process for HUD housing programs has operated with respect to this pre-application phase and consequently covers not only projects which will be insured or supported by HUD but also some whose financing will be conventional.

Because of local zoning and subdivision controls or local comprehensive plan requirements, clearinghouse inputs may be minimal with respect to many or most individual projects except those of major size or strategic location. The primary value of notifications to clearinghouses is the intelligence they provide of emerging growth patterns that have to be considered in the areawide comprehensive planning process.

[129] *See, e.g.*, Department of Housing and Urban Development's Workable Program requirements, 42 U.S.C. § 1451 (1970).

[130] Similarly, the PNRS, by requiring clearinghouse review of projected planning and development activities, sets the stage for a systematic and continuous program of coordination.

[131] A–95 thus provides, in effect, an operational definition of planning coordination and identifies, but does not prescribe, organizations under which various agencies could be coordinated operationally and policywise while maintaining their own identities, if that is necessary.

[132] Exec. Order No. 11,512, 35 Fed. Reg. 3979 (Mar. 2, 1970).

[133] First CEQ Report 20.

[134] 83 Stat. 852 (1970), as amended, 42 U.S.C. § 4321 et seq. (1970).

[135] Exec. Order No. 11,514, 35 Fed. Reg. 4247 (Mar. 7, 1970).

[136] Report of the White House National Goals Research Staff, Toward Balanced Growth; Quality With Quantity (1970). The report was ordered by the President on July 13, 1969.

[137] Id. at 167.

[138] Reorganization Plan No. 2 of 1970, 3 U.S. Cong. & Admin. News 6315 (1970).

[139] Housing and Urban Development Act of 1970, Title VII, 84 Stat. 1770 (1971), as amended, 42 U.S.C..§§ 4501–550 (1972).

[140] Moynihan's departure was due, primarily, to his controversial proposals—particularly his ghetto dispersal program. See text with note 115, supra.

[141] See note 139, supra.

[142] Bonafede, Ehrlichman Acts as Policy Broker in Nixon's Formalized Domestic Council, 2 Nat'l. J. 1238 (1971).

[143] Some of the legislative proposals were: S. 2701, 91st Cong., 1st Sess., (Commission on Population Growth and the American Future; S. 1430, 92 Cong., 2d Sess., Dept. of Community Development); S. 992, 92d Cong., 2d Sess., (National Land Use Policy); S. 3248, 92d Cong., 2d Sess., (Community Development Block Grants); and H.R. 7211, 92d Cong., 2d Sess., (Public Land and National Land Use Policy, as it relates to public land disposal and new town development).

[144] Domestic Council Committee on National Growth Policy, Draft Memorandum For the President (November 20, 1970).

[145] S. 1282, 92d Cong., 1st Sess. (1971).

[146] Id.

[147] The House Committee on Banking and Currency assembled testimony on the manners in which housing production and demand and a "suitable living environment" are related to national development and growth. Papers submitted to Subcommittee on Housing Panels of the House Comm. on Banking and Currency on Housing Production, Housing Demand, and Developing a Suitable Living Environment, pts. 1 and 2, 92d Cong., 1st Sess. (1971). The committee also considered housing legislation that year, but no

major housing bill with provisions concerning a possible national growth policy passed. However, many bills were introduced in the 1st session of the 92d Congress. *See* S.J. Res. 52 (Comprehensive Planning and Open Space Land Grants); S. 580 (National Development Financing); S. 1958 (Domestic Development Bank); H.R. 3550 (National Development Act); H.R. 9688 (Housing and Urban Development Act). For a complete list, see Staff of Senate Comm. on Interior and Insular Affairs, National Land Use Policy: Background papers on past and pending legislation and the Roles of the Execuitve Branch, Congress, and the States in Land Use Policy and Planning, 92d Cong., 2d Sess. (Comm. Print 1972).

[148] Domestic Council Commiteee on National Growth, Report on National Growth (1972).

[149] See, e.g., Statement of the Board of Governors of the American Institute of Planners, 118 Cong. Rec. S. 9148 (daily ed. June 12, 1972).

[150] D. H. Meadows, The Limits to Growth (1972). The Club of Rome, an internationally distinguished group of businessmen, economists, and scientists which sponsored the report, concluded with a number of postulates regarding the future of man's development. They were very pessimistic:

1. "We are convinced that realization of the quantitative restraint of the world environment and of the tragic consequences of an overshoot is essential to the initiation of new forms of thinking that will lead to a fundamental revision of human behavior and by implication of the entire fabric of present-day society;

2. "We are further convinced that demographic pressure in the world has already attained such a high level, and is moreover so unequally distributed that this alone must compel mankind to seek a state of equilibrium on our planet;

3. "We recognize that world equilibrium can become a reality only if the lot of the so-called developing countries is substantially improved both in absoute terms and relative to the economically developed Nations, and we affirm that this improvement can be achieved only through a global strategy;

4. "We affirm that the global issue of development is, however so closely interlinked with other global issues that an overall strategy must be evolved to attack all major probems, including in particular those of man's relationship with his environment.

5. "We recognize that the complex world problematique is to a great extent composed of elements that cannot be expressed in measurable terms. Nevertheless, we believe that the predominantly quantitative approach used in this report is an indispensable tool for understanding the operation of the problematique. And we hope that such knowledge can lead to mastering its elements.

6. "We are unanimously convinced that rapid radical redressment of the present unbalanced and dangerously deteriorating world situation is the primary task facing humanity. This supreme effort is a challenge for our generation. It cannot be passed on to the next. The effort must be resolutely undertaken without delay and significant redirection must be achieved during this decade.

7. "We have no doubt that if mankind is to embark on a new course, concerted international measures and joint long-term planning will be necessary on a scale and scope without precedent.

8. "We unequivocally support the contention that a brake imposed on world demographic and economic growth spirals must not lead to a freezing of the status quo of economic development of the world's nations.

9. "We affirm finally that any deliberate attempt to reach a rational and enduring state of equilibrium by planned measures, rather than by chance or catastrophe, must ultimately be founded on a basic change of values and goals at individual, national and world levels." *Id.* at 190-95.

[151] Population 3.

[152] Pub. L. No. 91-213, 84 Stat. 67 (1970), *as amended*, 42 U.S.C. § 4331 (1972).

[153] Population 4.

[154] More specifically, the Commission made concrete recommendations for carrying out that policy. Some of them were: 1) a stabilized population; 2) development of a set of national population distribution guidelines to serve as a framework for regional, state, and local plans and development; 3) regional, state and metropolitan-wide comprehensive planning to achieve a higher quality of urban development; 4) action to increase freedom of choice of residential location through elimination of current patterns of racial and economic segregation; 5) to anticipate and guide future urban growth, the Commissioner recommended comprehensive land use and public facility planning on an overall metropolitan and regional scale; 6) that governments exercise greater control over land-use planning and development; 7) to reduce restrictions on the entry of low and moderate incomes to the suburbs the Commission recommended that Federal and State governments ensure provision of more suburban housing for low and moderate income families; 8) to promote the expansion of job opportunities in urban places located within or near declining areas and having demonstrated potential for future growth, the Commission recommended the development of a growth center strategy; 9) The Commission recommended the establishment of State or regional development corporations which would have the responsibility and the necessary powers to implement comprehensive development plans either as a developer itself or as a catalyst for private development; 10) the Commission recommended the creation of an office of population growth and distribution within the executive office of the President; and 11) that State governments either through existing planning agencies or through new agencies devoted to this purpose to give greater attention to the problems of population growth and distribution.

[155] See Wall Street Journal, July 21, 1972, at 1, col. 3.

[156] Council on Environmental Quality, Environmental quality: The third annual report (1972).

[157] See note 149, supra.

[158] See population.

[159] S. Rep. No. 92-866, 92d Cong., 2d Sess. (1972).

[160] S. 5, 92d Cong., 2d Sess. (1972).

[161] See note 159, supra. The report would include: 1. An analysis in terms of national priorities of the programs in the annual budget submitted by the President, 2. an examination of the resources available to the nation, the foreseeable costs and the expected benefits of existing and proposed federal programs, and the resource and cost implications of alternative sets of national priorities, and 3. recommendations concerning spending priorities among federal programs and courses of action as to which program choices would best guide America's growth.

[162] Pub. L. No. 92-419 (1972).

[163] 84 Stat. 1358 (1970), as amended, 7 U.S.C. § 1305 (1970).

[164] S. 3354, 91st Cong., 2d Sess. (1970).

[165] S. Rep. No. 92-869, 92d Cong., 2d Sess, (1972).

[166] Id.

[167] Id. at 22.

[168] S. Rep. No. 92-869, supra note 165, at 20.

[169] Id. at 20.

[170] Id.

[171] Id.

[172] New York Times, Sept. 20, 1972, at 1, col. 5.

[173] Public Land Policy Act of 1972, S. 2450 92d Cong., 2d sess. (1972); National Resource Land Management Act of 1972, S. 2401, 92d Cong., 2d Sess. (1972); Public Land Policy Act of 1972, H.R. 7211, 92d Cong., 2d Sess. (1972); Hearings on Public Land Policy Act of 1971, Before the Subcomm. on the Environment of the House Comm. on Interior and Insular Affairs, 92d Cong., 1st Sess. (1971); Report to the President and the Congress by the Public Land Law Review Commission, One Third of the Nation's Land (1970); Hagenstein, One Third of the Nation's Land—Evolution of A Policy Recommendation, 12 Nat. Resources J. 56 (1972); Noone, Senate, House Differ on Approaches to Nation's Land Use Laws, 2 Nat. Journal 1192 (1972).

[174] See note 141, supra.

[175] See note 172, supra.

[176] S. 3248, 92d Cong., 2d Sess. (1972).

[177] See Housing and Urban Development Act of 1972 H.R. 16704, 92d Cong., 2d Sess. (1972).

[178] See Housing and Urban Development Act of 1972 H.R. 9688, 92d Cong., 2d Sess. (1972).

[179] See Housing and Urban Development Act of 1972 H.R. 13292, 92d Cong., 2d Sess. (1972).

[180] ALI Model Land Law Development Code (Tent. Draft 1971). See also Babcock, Comments on the Model Land Development Code, 1972 Urban L. Ann. 59 (1972).

[181] Public Works Development Act of 1972 S. 3381, 92d Cong., 2d Sess. (1972). See also Hearings on the Public Works Development Act of 1972, Before the Subcomm. on Economic Development of the Senate Committee on Public Works, 92d Cong., 2d Sess. (1972).

[182] American Institute of Architects, America At the Growing Edge: A Strategy for Building A Better America (1972).

[183] Supra, note 47.

[184] Staff of Senate Comm. on Agriculture, 92d Cong., 2d Sess., Draft Legislation (March 21, 1972).

[185] See note 141, supra.

[186] 84 Stat. 219 (1970), as amended, 49 U.S.C. § § 1701-703, 1711-727 (1970).

[187] See note 163, supra.

[188] See notes 110, 101, and 134, supra.

[189] S. 3600, 92d Cong., 2d Sess. (1972).

[190] Letters from mayors, governors, professors, housing and planning officials are on file in my Senate office.

[191] Hearings on National Growth Policy, Before the Subcomm. on Housing of the House Comm. on Banking and Currency, 92d Cong., 2d Sess. (1972), pts. 1 & 2; and Senate Comm. on Gov't Operations, Toward a National Growth and Development Policy: Legislative and Executive Actions in 1970 and 1971 (Comm. Print 1972).

[192] Dileo, Directions and Dimensions of Population Policy in the United States: Alternatives for Legal Reform, 46 Tulane L. Rev. (1971); Miller & Davidson, Observations on Population Policy Making and the Constitution, 40 G. W. L. Rev. 618 (1972).

[193] See Domestic Development and Bank Act of 1971, S. 1958, 92d Cong., 1st Sess. (1971); S. 3001, Federal Financing Bank Act of 1972, 92d Cong., 2d Sess. (1970); and title I of H.R. 13273, Small Communities Planning, Development and Training Act of 1972, 92d Cong., 2d Sess. (1972).

[194] Notes, Public Land Banking: A New Praxis For Urban Growth, 23 Case W. Res. L. Rev. 897 (1972).

[195] See Meadows, supra note 150, at 29.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there any further morning business?

The ACTING PRESIDENT pro tempore. Is there any further morning business? If not, morning business is concluded.

ECONOMIC STABILIZATION ACT AMENDMENTS OF 1973

The ACTING PRESIDENT pro tempore. Under the previous order, the Chair lays before the Senate the unfinished business, S. 398, which the clerk will report.

The assistant legislative clerk read as follows:

Calendar No. 70, S. 398, a bill to extend and amend the Economic Stabilization Act of 1970.

The Senate proceeded to consider the bill.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that the time not be charged against either side on the bill or on the amendment.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

AMENDMENT NO. 40

The pending question is on agreeing to the amendment, No. 40, of the Senator from South Dakota (Mr. McGOVERN). Who yields time?

Mr. McGOVERN. I yield myself such time as I may require.

My amendment No. 40 was read yesterday, so I shall not ask that it be stated again.

Mr. President, the growing list of Presidential impoundments threatens to make a mockery of our constitutional legislative process. While we debate and hold hearings on what should be done in the year ahead, the budget bureaucrats have already decided what will be done no matter what conclusions are reached by Congress.

Consider some examples: Last year the House and the Senate voted by margins of two-thirds or more that the Clean Water Act should be implemented, despite the President's veto. We overrode the veto, under a procedure explicitly stated by the Constitution.

Then the President overrode the Congress and impounded the funds, using a procedure I believe the Constitution abhors. Why would the framers bother to put in a means for overriding vetoes if the President can render it meaningless with a stroke of the pen?

Last year the President asked for authority to cut wherever he wanted in fiscal 1973 spending, to meet what he regarded as an appropriate budget ceiling. He refused even to tell the Congress what programs would be cut.

Congress refused to give him that broad authority. It was properly recognized as an unprecedented and unwarranted transgression against our power over the national budget.

So the President just took that power. One wonders why he bothered to ask.

At the same time long-standing programs which have been frequently reaffirmed by the Congress have been summarily canceled.

Last year Congress increased funds for the 2 percent rural electric loan program; today the program no longer exists. The same is true of other laws bearing on the vitality of rural America. It is true, as well, of portions of the 1968 Housing Act, and of a lengthening list of other programs which have been repeatedly reaffirmed and funded by the Congress. And in no case have these programs been given the fair hearing due process guarantees even to the condemned.

No one claims that impoundment was invented by this administration. But it is clear that this administration has escalated that doubtful strategy into a form of legislation an "item veto" which enables the White House to select which laws it will implement and which it will ignore.

Presidents have requested such power on several occasions in our history. It has never been granted. Now it is simply taken. And the President himself has announced that he will continue to use it whenever he sees fit.

Administration spokesmen defend impoundments in essentially two ways.

First, they say many of these programs should be abandoned on the merits—that they are not working as they should.

Well, if that is their judgment, then they have ample recourse. I know of no case in which administration witnesses have been denied an opportunity to come before a committee of Congress to urge that a program be repealed or reformed. On the contrary, the testimony of the executive branch is always sought and always welcomed when any program is under consideration.

Second, the administration argues that the President is obliged to impound funds because he must manage the economy prudently. It is said by those who subscribe to this school of thought, that Congress wants to spend excessively and irresponsibly, thus setting the stage for ruinous inflation.

That is too neat, Mr. President. It is a well-constructed picture of a wise and careful Executive systematically undoing the damage inflicted by big spenders on Capitol Hill. Thus we saw the President's top domestic advisor, John Ehrlichman, telling the Nation a week ago on ABC's "Issues and Answers" that the President must impound because the President knows better.

The only trouble with that picture is that it is completely false.

I suspect my colleagues will agree that whatever the circumstances, the country should not be governed under the doctrine that the President knows better. The principle of separation of powers is still vital to the survival of democracy, no less than when the Nation was founded.

But if that notion is repugnant to our principles, the repeated negative propaganda about the Congress should be no less repugnant to our respect for the truth and to our self-esteem as well.

I am frankly tired of hearing this argument that Congress is to blame for the enormous deficits of the past 5 years, though I think that it is a view that is held by a great many millions of Americans. The truth is that from the time this administration took office—fiscal 1969 through fiscal 1973—the Congress has cut administration spending requests by a grand total of $30.857 billion.

At the same time we have added to the budget, through backdoor and mandatory spending programs, a total of $30.475 billion that the administration did not request, as in the case of the social security increase last year.

Even if we stopped there, the net effect of congressional action on the budget over those 5 fiscal years has been a net reduction of roughly $400 million in national spending.

But it is not correct to stop there. For while the Executive has been cutting corporate taxes—and the accelerated depreciation range guidelines alone cut revenues by an estimated $4 billion in fiscal 1973—the Congress has been adding new taxes to finance a substantial portion of the additions we have made to the budget. For example, social security increases, which account for the largest single congressional addition since fiscal 1969, has been fully funded. In fact, the social security trust fund will carry a surplus of roughly $9.3 billion in fiscal 1973.

So under the unified budget concept, the net effect of congressional action has been to reduce by many billions of dollars the cumulative deficits we would have had if the administration's budgets had been left unchanged over the last five years.

Mr. President, I have several brief tables which spell out these figures in more detail, and I ask unanimous consent that they be printed in the RECORD at the conclusion of my remarks.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. (See exhibit 1.)

Mr. McGOVERN. So there is no justification, either in law or in fact, for these wholesale Executive impoundments. They degrade the Congress and they defy the Constitution.

The question is, What can we do?

Simple protests and speeches decrying Executive actions have no effect, as we all know. The legislation under consideration by the Subcommittee on Separation of Powers is one answer, and I am pleased to cosponsor Senator ERVIN's proposal. It would prohibit impoundments without congressional approval.

We can also contest impoundments in the courts, and efforts of that kind are also underway.

Yet we need a workable interim answer.

Administration actions in the past few months indicate that they plan, in part through impoundments, to radically

alter the role of the National Government in our society—and this in a matter of months. Decisions that are being made now will have a profound influence not only on the next fiscal year but for many on those issues, then we must deal with impoundments just as quickly as we can.

Further, if it is to be effective on an interim basis, I am convinced we must take anti-impoundment action which does not face a long struggle in the courts, and which is not vulnerable to challenges, such as the "political question" doctrine, which can delay or prevent a definitive judicial answer.

When we examine this issue closely, we find that there are few easy or moderate answers. The courts in the past have been loath to intercede in disputes between the Executive and the Congress. Hence, it is certainly possible that the courts will decline to decide the suit which has been joined by a group of congressional committee chairmen, on the grounds that it is a political question best decided by voters at the ballot box. Although it would be raised in a different context, it is conceivable that the same fate would befall Senator ERVIN'S bill—assuming it receives the two-thirds margin of support needed to override a veto. But in any case, it will take many months to resolve the issue by those methods.

The pending amendment avoids these obstacles.

What I propose is that we give third parties—in this case workers and businesses which the administration intends to control under phase III—a clear and unmistakable legal right which can be exercised in court if the President continues to defy the Congress on the question of impoundments. If impoundments are made, the President's authority under the act would become null and void and any party against whom there was an attempt to enforce controls could use the language of the amendment as a defense. Since the amendment operates between the Executive and private parties, rather than between the Executive and the Congress, the political question problem would not arise.

I fully recognize that some Senators may have qualms about attaching such language to the Economic Stabilization Act amendments. But the same concerns could be raised in the context of any suitable legislation. The strategy I am suggesting will work only if we attach language of this kind to authority the President wants and fully intends to carry out. I recognize that there is no use in attaching an anti-impoundment amendment to a bill the President does not care about in the first instance. Otherwise, we can be certain that it will be either vetoed or ignored. And a President who is cutting back on government does not want much. We will have few opportunities of this kind.

I recognize, too, that some Senators may be concerned that this amendment may be construed as creating a right to impound where none exists. It is true that the amendment would not be operable, and the President's control authority would not be inoperable unless he impounded in excess of 5 percent of the funds in any program. However, section 5 of the bill itself would certainly apply to this amendment as well as to the rest of the Economic Stabilization Act. It provides that:

> 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.

Hence, the amendment clearly would not create or affirm any authority to impound. Instead it would sharply restrict the impoundments the President would otherwise surely make regardless of what Congress says.

The 5-percent limitation would enable reasonable budgetary reserves such as those contemplated by the Antideficiency Act of 1950.

In sum, this amendment is a workable temporary answer to the very serious legal and practical problems raised by Executive impoundments.

It can go into play immediately while longer term solutions are under consideration.

And it can be effective. It has teeth, and it will assure that programs we adopt and the President signs into law cannot be discarded at the whim of the White House.

Mr. President, I found last year that although they may be uncomfortable to live with at times, the national polls are sometimes an accurate reflection of public attitudes. Therefore, I think it is significant that a recent Harris survey demonstrated that the majority of Americans who have an opinion support the Congress on this issue, despite unrelenting "education" the other way from the White House. In other words, the majority of the American people who express themselves want Congress to reestablish its control over the budget, rather than permitting that power to rest in the hands of one man at the White House level.

I suspect the American people will be still more sympathetic if we go beyond the talking stage, and elevate the impoundment issue from the level of acrimonious dispute to constructive action.

I urge adoption of amendment No. 40, as a practical means of bringing the anti-impoundment efforts of Congress into focus in a way that will be effective.

Mr. President, I reserve the balance of my time.

EXHIBIT 1

TABLE I.—*Congressional reductions from administration estimates*

Fiscal year:	
1969	$13.750
1970	5.436
1971	2.617
1972	2.993
1973 (preliminary)	6.061
	30.857

TABLE II.—*Congressional additions on backdoor spending*

Fiscal year:	
1969	$0.465
1970	5.340
1971	5.813
1972	0.200
1973	14.145
Total backdoor	25.963

TABLE III.—*Congressional additions on mandatory spending*

Fiscal year:	
1969	$0.272
1970	0.364
1971	2.539
1972	0.473
1973	0.864
Total mandatory	4.512

TABLE IV

Cuts in appropriations estimates	—$30.857
Backdoor spending additions	[1] +25.963
Mandatory spending additions	[1] +4.512
Net congressional action (1969–73)	0.382

[1] Congress has also provided funding for its additions. The roughly $30 billion in added social security and other backdoor and mandatory programs has been almost entirely made up by added tax levies to finance those programs. Social security and other trust funds have been running a substantial surplus ($9.328 billion in fiscal year 1973, $13.117 billion in fiscal year 1974).

Mr. TAFT. Mr. President, a parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TAFT. I would inquire of the Chair whether a point of order with regard to the germaneness of the amendment now before the Senate has been raised.

The ACTING PRESIDENT pro tempore. It has not been raised and would not be in order until the time had been consumed. Five minutes remain to the proponents of the amendment.

Mr. TAFT. Mr. President, another parliamentary inquiry.

The ACTING PRESIDENT pro tempore. The Senator will state it.

Mr. TAFT. How much time remains to the proponents of the amendment?

The ACTING PRESIDENT pro tempore. Five more minutes remain. Who yields time?

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

The ACTING PRESIDENT pro tempore. On whose time?

Mr. TAFT. The time is to be equally divided.

Mr. McGOVERN. Mr. President, I object to that, because I have only 5 minutes remaining. I think that if a quorum is to be called, it ought to be charged to the time of the Senator asking for a quorum.

The ACTING PRESIDENT pro tempore. Objection is heard. Who yields time?

Mr. TAFT. Mr. President, I suggest the absence of a quorum, the time to be charged to the opponents of the amendment.

The ACTING PRESIDENT pro tempore. Does the Senator from Ohio control that time?

Mr. TAFT. Yes.

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

The legislative clerk proceeded to call the roll.

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

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

Mr. BELLMON. Mr. President, I ask unanimous consent that Mr. Charles Waters and Mr. Dennis Moffett, of my staff, be granted the privilege of the floor during the consideration of the bill.

The PRESIDING OFFICER. On whose time is the Senator speaking?

Mr. TAFT. I will grant 1 minute to the Senator.

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

Who yields time?

Mr. TAFT. Mr. President, I yield myself such time as I may require.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, it has been my purpose to discuss, and I shall in a few minutes discuss, the question of the germaneness of the current amendment; but before doing so, let me just comment on the amendment and what the effect of it would be.

Phase III, as it presently exists under the Economic Stabilization Act, is the basic legislation giving to the President the authority and the power to impose limitations upon the inflationary trends in this country. This, I think, he has done very successfully in the past period during which the legislation has been in effect. Few Americans would question whether there is a need for such authority at this time. The figures themselves show clearly that there is such a need and Congress, acting responsibly, should provide the authorization.

The issue raised by the amendment is a different issue from that. The issue is one of the basic power of the President as compared to Congress' to withhold or not spend funds which have been authorized and appropriated for particular purposes by Congress.

It raises constitutional questions, issues which certainly I believe are worthy of debate and consideration by this body in great detail.

However, I should like to suggest, as a matter of wisdom and not as a matter of relevance, because as I will argue shortly, I think that the question of impoundments is very relevant and the need for impoundment, indeed, has been imposed by Congress, failure to discipline itself adequately enough insofar as the budgeting processes are concerned, that the budgeting and the appropriating of the funds go considerably beyond our resources coming from general revenues, and thus, the resulting deficit spending in which we find ourselves over a protracted number of years.

The issue, however, even though relevant, it seems to me is unfortunate to put it on this bill, which it seems absolutely clear to me, and I think the President has made that abundantly clear, if it is necessary to impound, he feels there is authority to impound under other legislation and, indeed, in carrying out his constitutional responsibilities, he really can do little other than impound, or watch the country go into bankruptcy with all the undesirable effect that would have on all the social welfare and other programs we have in this country.

So I think that the purposes of the amendment, while perhaps justifiable from the point of view of arguing the constitutional question, I should like to change the mechanism, and I have an amendment at the desk on that which is now pending, No. 46, on which I will speak later, but I believe that some procedure is necessary for this. But to put a flat prohibition on impoundment would, in my opinion, virtually assure a veto of the legislation because it would create conditions which, if this amendment were in the bill, would make it impossible for the President to act under the bill.

Indeed, the danger from inflation—I would go this far as to say that the danger from inflation to the country, if this impoundment prohibition is put in the bill, would be greater than the danger of not extending the Economic Stabilization Act at all.

Mr. SPARKMAN. Mr. President, will the Senator from Ohio yield?

Mr. TAFT. I am happy to yield to the Senator from Alabama.

Mr. SPARKMAN. Mr. President, I want to say this, that of course I have objected strongly to some of the impoundment by the President. I have not done it as to just everything, but I do feel that when he used impoundment to eliminate programs that Congress had authorized and which he had signed into law, well, I just felt that was going pretty far.

I am still hopeful that the President will release funds from time to time for the programs that are sorely needed. I have opposed the impoundment and the manner in which he has done it, for I do not believe this is the way to answer that problem.

Personally, I am very sorry that the Senator from South Dakota did undertake in this way to fight impoundment, by saying, in effect, that otherwise the whole Economic Stabilization Act can be knocked out. While I may be opposed to impoundment, I strongly favor our doing something to try to steady the economy. Goodness knows, it needs it. This is what the Senator from South Dakota proposes to do here, to cut off our nose to spite our face.

The PRESIDING OFFICER (Mr. HUDDLESTON). The time of the Senator from Alabama on the amendment has expired.

Mr. TAFT. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from South Dakota has 5 minutes on the amendment, and that is all the time remaining on the amendment.

Mr. TAFT. Has the time of the Senator from Ohio expired?

The PRESIDING OFFICER. Yes, it has.

Mr. TAFT. I thank the Chair.

Mr. McGOVERN. Mr. President, I want to make the point, in conclusion, about the amendment, with all due respect to the question raised both by the Senator from Ohio and the Senator from Alabama, that this is the proper vehicle on which to attach the amendment. The language of the bill now before us, as a matter of fact, refers specifically to the problem of impoundment.

Section 5 reads as follows:

"(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."

That was written in committee by the committee, of which the Senator from Alabama is the chairman, relating to the problem of impoundment.

Beyond that, the original act which we are now modifying has language which reads as follows:

Any person suffering a legal wrong because of any act or practice arising out of this title or any order or regulation issued pursuant thereto, may bring an action in the District Court of the United States without regard to the amount in controversy.

So the amendment relates to the enforcement issue in the act itself. The bill deals with inflation controls. That is really what we are talking about in the Economic Stabilization Act. The President has asserted that impoundments are made for the purpose of inflation controls. Therefore, both the amendment that I have offered and the bill itself deal with the single subject and that is, the President's authority to control inflation.

I quite agree with what both the Senator from Ohio and the Senator from Alabama have said, that it is very important our Government have the power to deal with the problems of inflation. But it is also important that we stay away from one-man rule in this country and that Congress have some voice in the manner in which public funds are expended. There is nothing in the Constitution that ever gave the President the authority to operate in an arbitrary or unilateral fashion without referring to the wishes of Congress.

If the control of inflation under this act is as important as the chairman of the committee, the Senator from Alabama (Mr. SPARKMAN), has said—and I believe it is important—then the President has a perfect "out" under the terms of this amendment, and that is, simply to stop the arbitrary impoundment of funds, and he will have all the authority that this act bestows upon him.

So I see nothing in the amendment except an effective effort to keep in it on the part of Congress and to take advantage of the first real vehicle we have had to deal with this problem of impoundment in a way that counts, and that is to set up an anti-impoundment provision in a bill that the President says is important, which is important to the country, and then we have the vehicle and the instrument we need to see that the powers of Congress are restored.

We can do that in an effort that is practical and effective under the terms of the amendment.

I hope very much that the amendment will be agreed to.

I yield back the remainder of my time.

The PRESIDING OFFICER. All time having been used or yielded back, the question is on agreeing to the amendment.

Mr. TAFT. Mr. President, I raise a point of order against the amendment, on the basis that it is not germane, in accordance with the consent agreement, and I would like to be heard on the point of order.

The PRESIDING OFFICER. The Senator will be heard on the point of order.

Mr. TAFT. Mr. President, I do this with some reluctance and not out of any attempt to oppose the distinguished Senator from South Dakota in bringing this issue before the Senate.

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

Mr. TAFT. I yield for a question.

Mr. ROBERT C. BYRD. On whose time is the Senator making his point of order?

The PRESIDING OFFICER. The time will have to come from the bill.

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

Mr. TAFT. As I say, I raise this point of order with no desire to prevent the matter coming to an issue. As I stated earlier, I feel that the issue is an extremely relevant one to the whole question of the extension of the Economic Stabilization Act and the whole question of the need for controls and for some resolution by Congress, in a workable way, of the impoundment issue.

If the amendment goes to a vote, I shall, of course, oppose the amendment, because I do not believe that the amendment, in the approach it takes, is a workable way of handling the impoundment issue, but I do believe it is thoroughly relevant.

The question on which the point of order is raised relates solely to the issue as to whether or not the consent agreement in this particular case bans an amendment of this sort as being not germane.

Another reason, frankly, as to why this issue is raised is that pending before the Senate at this time—and they could be called up at any time—are amendments of the Senator from Wisconsin relating to the whole question of impoundment and a ceiling upon expenditures which, in turn, I think is very directly related to the whole issue, and an amendment by the Senator from Oklahoma, and an amendment by myself—all of which deal with the whole area of impoundment.

Some questions have been raised as to whether these amendments would be in order under the consent agreement if they are called up. It seems to me that they should be considered to be germane and in order, but there seems to be some doubt about this. For this reason, I have raised the issue at this time as to the amendment of the Senator from South Dakota.

It seems to me, as we see in the amendment of the Senator from South Dakota, that he attempts to deal with the withholding or reserving of an excess of 5 percent of any obligational authority provided by law or any funds appropriated under such authority.

This would go, insofar as carrying it out is concerned, a good deal beyond the provisions of the bill which are involved, as we see on page 3, starting on line 25, in which it is stated in the committee amendment, now part of the bill, that—

> 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.

This definition or defining provision relates solely to this particular act. It does not relate to other acts to which the amendment of the Senator from South Dakota would definitely relate. It would be right across the board and would call into action, I believe, possibly the General Accounting Office as to a determination of whether the 5-percent requirement in the amendment of the Senator from South Dakota has or has not been used.

It might require a determination by the Office of Management and Budget, also, as to whether there had been any withholding or reservation in excess of 5 percent of the obligational authority provided by law.

These factors would certainly call upon other instrumentalities of Government over and beyond a mere interpretation of the law that the courts will have to make under the provision as it appears in the current bill.

For that reason, I think it is important that we have a ruling at this time, so that, when the issues arise on the amendments to be offered at a later time with regard to reservation and with regard to a ceiling or limitation upon expenditures, we have some precedent on which to base them.

On that, I rest my point of order.

The PRESIDING OFFICER. The Chair rules that the amendment is germane, subject to the provision in the bill relating to impoundment.

The question now is on agreeing to the amendment.

Mr. ROBERT C. BYRD. Mr. President, on behalf of Mr. SPARKMAN, I yield myself 1 minute from the bill.

The time for the vote on the amendment by Mr. McGOVERN has arrived. I ask the distinguished senior Senator from South Dakota if he would be willing at this time to call up a second amendment, which I understand he is ready to propose; that we ask unanimous consent to temporarily lay aside the pending amendment and proceed with the next amendment, possibly have a vote on the pending amendment—say, at 2 p.m.—with a vote on the second amendment to occur back to back thereafter.

Mr. McGOVERN. That is acceptable to me, Mr. President.

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

The reason I make this proposal is that several committees are still meeting, conferences are occurring; and in order that they might not be interrupted in their continued hearings and meetings, I ask unanimous consent that the pending amendment be temporarily laid aside, that the Senator from South Dakota may be recognized to propose a second amendment; that the vote on the pending amendment occur at 2 p.m. today, to be followed by the vote on the second amendment, provided that time on that amendment has expired at that point.

Mr. TAFT. Mr. President, reserving the right to object, may I inquire what the time on the amendment about to be offered would be?

Mr. ROBERT C. BYRD. Thirty minutes on the amendment about to be offered.

The PRESIDING OFFICER. Fifteen minutes to each side.

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

The Senator from South Dakota is recognized.

AMENDMENT NO. 41

Mr. McGOVERN. Mr. President, I call up my amendment No. 41.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. McGOVERN. 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:

At the end thereof add the following new section:

WAGE AND PRICE STANDARDS

SEC. 9. Section 203 of the Economic Stabilization Act of 1970 is amended—

(1) by adding the following new subsection, and renumbering the other subsections accordingly:

"(b) In the event that the President issues any orders or regulations for the control of wages and salaries pursuant to subsection (a) of this section, such orders shall also provide for the control of the prices of the employer, and shall limit any increase in such prices to an amount sufficient to cover any projected increase in the net cost of producing the product or offering the service: *Provided, however,* That nothing in this subsection shall be used to hold prices for such employer below a level which would yield a profit margin of 7.5 per centum."

(2) by adding the following new subsection and renumbering the other subsections accordingly:

"(e) Notwithstanding any other provision of this title, no order, regulation, or standard may be issued pursuant to subsection (b) or (c) of this section which has the effect of increasing the rate of profit of the person or entity seeking a price increase to a level above the rate of profit such person or entity earned during the twelve-month period prior to May 25, 1970, or 7.5 per centum, whichever is higher.",

(3) and by adding at the end of subsection (f) (redesignated subsection (h)) of that section the following:

"(4) or which in the aggregate is equal to or less than the higher of—

"(A) the sum of the increase in the cost of living and any increase in productivity since May 25, 1970, less any wage or salary increase since that time, or

"(B) the amount of windfall profit the employer received from any increase in profit margins since May 25, 1970."

Mr. McGOVERN. Mr. President, while I share congressional anger over the proposed Nixon cuts in domestic programs and the ever increasing unconstitutional impoundments, I fear that the debate has obscured other interests of that vast majority of our citizens who earn their living in factories and on farms.

Many Americans have lost confidence in government largely because of two factors:

Working people have seen a severe threat to the prosperity they learned to expect and come to accept during the mid-1960's. Working families have seen gains in real income during the Kennedy-Johnson era eroded by inflation and higher payroll taxes.

Unemployment has risen substantially. Nearly 4½ million Americans cannot find work; over 2 million more can find only part-time work; millions more cannot find jobs suited to their training and their talents.

Second, working people have learned that the burden of Federal spending falls unequally upon them. During the last 4 years, individual income taxes have increased by $7½ billion, while corporate taxes have decreased by $4½ billion. The tax loopholes which benefit the affluent are not available to the average family.

I believe we can find the necessary public support to spend workers' and farmers' tax dollars on new Federal initiatives only when they are financed by fair taxes derived from adequate wages. We cannot ask our people to do justice to others when we deny justice to them.

Mr. President, the administration's recent request for a 1-year extension of the President's authority to impose wage-price controls presents Congress with the opportunity to do at least partial justice for working Americans.

Therefore, I have this amendment to the Economic Stabilization Act of 1970 which, if enacted, will restore an equitable balance between working people and their employers.

The need for such legislation is best demonstrated by a review of the economic history of the last 4 years.

The principal domestic problem facing Mr. Nixon in his first term was how to deal effectively with the inflationary pressures caused by the war in Indochina. By 1968, the costs of Vietnam were being paid not only from an escalated Federal budget but from the diminished earnings of labor. The war escalation of 1968 was accompanied by a 4.2 percent rise in the Consumer Price Index.

While unemployment remained stable in 1969, actually decreasing one-tenth of 1 percent, the Consumer Price Index shot up 5.6 points. Although we enjoyed our last budget surplus in 1969—$4.7 billion—the Nation was already caught in the spiral of inflation we had not seen since the Eisenhower years.

The debate swirled around who should pay the cost of controlling that wartime inflation.

The Nixon administration, on ideological grounds, applied the economics of the Hoover administration, attempting to restrain prices by raising unemployment.

The result was recession—a massive increase in both unemployment and inflation at the same time. Joblessness jumped toward 6 percent while the Consumer Price Index leaped 6½ points.

Many of us in Congress decried those primitive economic policies. We saw no need to throw millions of Americans out of work, particularly when increasing unemployment brought no relief from ever-increasing inflation. Rural States such as the one I represent were particularly hard hit; the gap between the prices farmers had to pay and the prices they were paid widened more and more.

As the pace of inflation and unemployment speeded up in 1969 and 1970, the President's congressional critics argued that temporary economic controls were the only way to break the wage-price spiral. Despite the President's continuing disagreement, we enacted standby controls which he could implement, should he change his mind.

The Economic Stabilization Act of 1970, as amended, delegated broad and sweeping powers to the President to "issue such orders and regulations as he deems appropriate" to stabilize all elements of the economy—not just wages and prices. While the act set certain standards for the President to follow, the authority we delegated him was nearly absolute.

Perhaps such a broad standby measure was necessary when the President was resistant to any specific plan of controls.

Perhaps some of us wrongly assumed that the President would implement controls in an even-handed manner.

In any case, the pressures on the White House to act mounted rapidly. Polls showed approximately two-thirds of the American people in favor of temporary controls; they also showed a commensurate decrease in the President's popularity.

So, in a stunning reversal of his prior position, the President finally unfolded a new economic policy in August 1971.

With a stroke of the pen, he devalued the dollar, froze wages, prices, and rents, and set up the machinery for future mandatory controls. However, he refused to touch profits and interest rates.

The Nation experienced a sense of relief that action had been taken at last. However, I joined with the spokesmen of organized labor—President Meany and others—in noting that the controls were less than even-handed.

While the controls restrained wages and slowed the price advance, the cost of controlling inflation was put unfairly on the wage earner.

The wages of workers were frozen at inflation-ravaged levels while corporate profits were permitted to soar to record highs.

The administration's bias toward big business led AFL–CIO President George Meany and other representatives of organized labor to walk off the Pay Board in protest.

What have phase I and phase II done for the workingman—or, more appropriately, what have they done to him?

The administration proudly points to the January unemployment figure of 5 percent, which is 1½ percent above the level of the first Nixon year. In human terms, that statistic means that there were nearly four and a half million workers who could not find jobs in January. In addition, there were 2 million workers who had to take part-time jobs because full-time work was not available. Although the administration does not collect hard statistics on the number of persons who are underemployed, the number clearly runs into millions.

For those fortunate enough to have jobs, the decline in real income had been arrested. But the net gains have been only marginal. Average weekly earnings have increased only $7.05 since the introduction of phase II controls, with an actual decline of $1.15 in January of this year. The 13-month rise of less than 5½ percent has been almost matched by a 4.6 increase in the consumer price index and increased payroll taxes.

But while workers' take-home pay remained virtually constant, corporate profits after taxes shot up 14 percent in 1971 and nearly 15 percent in 1972. Much of those gains were the result of Federal tax concessions to big business.

No one disputes the right of businessmen to earn equitable profits. What I do dispute is the inequity in the President's administration of phase II. The Nixon controls have prevented workers from sharing in the new affluence of their employers, even though their productivity has risen sharply. The burden on working people is thus doubly great—their take-home pay has stagnated, while consumer prices continue to rise in part because of the profits they are forbidden to share.

Many working men and women across the land are again growing restive because they fear that the proposed Nixon phase III guidelines will perpetuate the phase II imbalance of power between labor and management.

Many unions have called for an end to the controls on grounds that their members will do relatively better in their struggle against inflation under free and open collective bargaining.

I now fear that the economic expansion of the election year may, in the words of the Federal Reserve Board Chairman, "touch off a new round of inflation." The latest monthly increase in the wholesale price index was sharper than at any time in the last 22 years. And the consumer price index is never far behind.

Yesterday we saw the prime interest rate rise half a point to 6¾ percent. The stock market, reportedly in anticipation of renewed inflation, has fallen sharply.

As Chairman Burns has warned:

> The expanding demand for goods and services could begin to pull prices upward and thereby reinforce prevailing cost-push pressures.

That risk is increased by the President's proposed budget which calls for a $19 billion or 8 percent increase in Federal spending. I have, therefore, joined with other Senators in introducing legislation to keep Federal spending at $265 billion, about $4 billion less than the President proposes to spend. We can consider further spending when and if Congress raises further revenues by closing glaring tax loopholes.

We are thus faced with a painful choice. If inflationary pressures again explode without even standby authority to impose controls, the resulting inflation would fall hardest on working people. And if we merely extend the President's present powers we may do equal harm.

Therefore, I have concluded that we must insure that the stick in Mr. Nixon's closet is not again used disproportionately against average citizens. We must make sure that any controls which we adopt will be applied fairly.

The present situation is very different from the time we originally enacted the authorization for temporary controls.

The administration's economic record under both phase I and phase II, as well

as the proposed phases III guidelines, signal what will be done in the year ahead unless the Congress amends the rules.

Working people will not be able to engage in free collective bargaining—their wages will not be permitted to increase by more than 5½ percent, no matter how much profit their employers make or how much their own productivity increases. That low standard could easily be substantially eroded by inflation.

While the administration has courted organized labor, it has not made any firm promise, nor taken any definite steps which working people can rely on, if Congress extends the act.

What I propose today is that the Congress adopt specific standards of fairness for the President to follow when and if he imposes wage-price controls. The present language of section 203(b) suggests certain general standards to be followed including that any action the President takes:

Be generally fair and equitable;

Take into account changes in productivity and the cost of living;

Provide for price reductions when production costs decrease; and

Call for generally comparable sacrifices on the part of the consumer, business, and labor.

Unfortunately, the President has not followed those standards. The cost of the fight against inflation has fallen principally upon the worker and the consumer. And the controls have actually resulted in artificially increasing business profits.

My amendment would help correct those inequities. It would explicitly require that the President follow the general standards now suggested in the act.

First, if the President decided to control wages, he would also be required to control the prices of the employer involved. In such cases, no price increase would be allowed except to reflect the net increase in the cost of production. Second, in any case no price increase would be permitted if it would leave a profit margin higher than the company enjoyed in the 12 months before the act was first adopted. However, the amendment would protect smaller firms by establishing a reasonable profit floor of 7½ percent.

And third, working people would be permitted to bargain for wage increases up to the sum of the increase in the cost of living and the increase in their own productivity—less any wage increased—since May 25, 1970, without the risk of such an agreement being set aside. Alternatively, workers could bargain freely for the amount of any windfall profit their employer received under phase I and phase II through increased profit margins.

In this way, all segments of the economy would bear equally the cost of controlling inflation.

The consumer would no longer be forced to underwrite increasing profit margins.

Business would for the first time be required to contribute its fair share, without being asked to reduce profits to unreasonably low levels.

And working people would be able to bargain freely for reasonable price increases—measured by objective economic standards.

This proposal would strengthen the fight against inflation. It would eliminate the most serious defect of the past—artificially high profit margins.

And most importantly, it will insure the average citizen the evenhanded treatment from Government they have a right to expect.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Ohio controls the time in opposition to the amendment.

Mr. TAFT. Mr. President, I yield myself 5 minutes.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. TAFT. Mr. President, the first part of the wage and price standards amendment substitutes a specific price standard for the general language of the original act. The problem with this specific standard is that its effect would be extremely uneven if it were applied to all segments of the economy. Certain industries and production processes have characteristics such as risk and turnover characteristics that lead to very different profit margins among industries. Applying a specific standard to all industries would consequently disrupt normal profit margins resulting from the diverse characteristics associated with each industry. In the food retail industry, for example, profit margins are typically very low compared to other sectors of the economy. Application of the specific standard provided in this amendment would substantially weaken our ability to control the margins of food wholesalers and retailers, sectors that continue to be subject to mandatory controls during phase III. Application of this same standard, on the other hand, to industries subject to a great deal more variability and output, risks, uncertainty, and turnover might well lead to a situation in which many industries would find it infeasible to continue operations. In such circumstances, firms in these industries would tend to discontinue operations further limiting supplies and driving prices up.

In the section dealing with profit margins, a profit margin test relating to a single 12-month period prior to May 25, 1970, is proposed. In the first place, many firms are on a fiscal year basis which does not correspond to that 12-month period. Such firms would have to recompute profit margins corresponding to the 12-month period by extrapolating on the basis of their fiscal year accounting methods. Moreover, since profits vary a great deal from year to year, utilizing only a single year for a profit margin test would permit some firms to achieve large profits while other firms would be unduly squeezed. The implementation of an averaging process corresponding to the fiscal years that firms normally use in their accounting practices such as was used both during phase II and phase III helps to avoid these inequities among firms and the burden of a great deal of paperwork by the business community.

In the section dealing with the wage standard, it is proposed that wage increases not be precluded which in aggregate are equal to or less than the sum of cost-of-living increases and productivity increases since May 25, 1970, or profit margins in excess of those for the 12-month period before May 25, 1970. The period since May 25, 1970, has been one of unusually rapid productivity growth. Consequently, unusually rapid increases in wages would be permissible under this standard. Since productivity growth varies over the short term, partly in response to cyclical levels of business activity, proceeding in this manner would result in variable rates of wage change that depended on average rates of productivity growth over the short term. Such a standard, consequently, would result in a situation in which at some time wage increases would increase rapidly in response to productivity growth and other situations in which wage increases would increase far less rapidly and might even decline as productivity growth slackened.

Prior to the establishment of the economic stabilization program, wages of workers have normally grown at a much more even pace than profits of firms. Profits increased more rapidly during periods of rapid productivity growth and increased less rapidly and in some instances fell dramatically when productivity growth declined. The standard proposed by this amendment would reverse these circumstances, and lead to wages that increased in response to short-term productivity growth while profits were stabilized. That is, the implication of this wage standard is that profits should be stabilized for business firms and workers should bear the brunt of changes in productivity growth rates by fluctuations in the rate of wage increase—an intention that I am sure must not have been included when the amendment was proposed.

The PRESIDING OFFICER. Who yields time?

Mr. McGOVERN. Mr. President, I suggest the absence of a quorum, to be taken equally out of 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. 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.

MESSAGE FROM THE HOUSE—ENROLLED BILL SIGNED

A message from the House of Representatives by Mr. Hackney, one of its reading clerks, announced that the Speaker had affixed his signature to the enrolled bill (S. 583) 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.

The enrolled bill was subsequently signed by the President pro tempore.

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.

The PRESIDING OFFICER (Mr. HELMS). Pursuant to the previous order, the Senate will now proceed to vote on amendment No. 40 of the Senator from South Dakota. 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 Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is 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 Iowa (Mr. HUGHES) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY) is necessarily absent.

The result was announced—yeas 9, nays 82, as follows:

[No. 47 Leg.]

YEAS—9

Abourezk	Humphrey	Metcalf
Church	Kennedy	Moss
Hartke	McGovern	Nelson

NAYS—82

Aiken	Ervin	Muskie
Allen	Fannin	Nunn
Bartlett	Fong	Packwood
Bayh	Goldwater	Pearson
Beall	Gravel	Pell
Bellmon	Griffin	Percy
Bennett	Gurney	Proxmire
Bentsen	Hansen	Randolph
Bible	Hart	Ribicoff
Biden	Haskell	Roth
Brock	Hatfield	Saxbe
Brooke	Hathaway	Schweiker
Burdick	Helms	Scott, Pa.
Byrd, Harry F., Jr.	Hollings	Scott, Va.
	Hruska	Sparkman
Byrd, Robert C.	Huddleston	Stafford
Cannon	Inouye	Stevens
Case	Jackson	Stevenson
Chiles	Javits	Symington
Clark	Johnston	Taft
Cook	Long	Talmadge
Cotton	Magnuson	Thurmond
Curtis	Mathias	Tower
Dole	McClellan	Tunney
Domenici	McClure	Weicker
Dominick	McGee	Williams
Eagleton	McIntyre	Young
Eastland	Montoya	

NOT VOTING—9

Baker	Fulbright	Mondale
Buckley	Hughes	Pastore
Cranston	Mansfield	Stennis

So Mr. MCGOVERN's amendment (No. 40) was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPARKMAN. Mr. President I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, after consultation with the Senator from South Dakota——

The PRESIDING OFFICER. The motion to table is not debatable. The question is on agreeing to the motion to table.

The motion to lay on the table was agreed to.

Mr. TOWER. Mr. President, after consultation with the Senator from South Dakota (Mr. MCGOVERN) I ask unanimous consent that the order for the yeas and nays on his next amendment be vacated.

Mr. ROBERT C. BYRD. The yeas and nays had not been ordered.

The PRESIDING OFFICER. That is correct.

The time has expired on the amendment offered by the Senator from South Dakota (Mr. MCGOVERN). [Putting the question.]

The amendment was rejected.

Mr. BAYH. Mr. President, I ask for the yeas and nays.

Mr. CHILES. Mr. President, I offered yesterday my amendment to reinstate mandatory rent control. First, I call up the amendment for rent control.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk read as follows:

On page —, line —, inserting the following:

SEC. 2. The Economic Stabilization Act of 1970 is amended by adding the following new section:

"§ 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 section 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 recission or modification of any lease or implied contract for occupancy except as to modification of the amount of rent to be charged pusuant 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. Who yields time?

Mr. CHILES. Mr. President, if I might have the attention of the assistant majority leader for a moment before time is yielded, according to the unanimous-consent agreement the so-called rent amendment has a 1-hour limitation. I do not know whether this is the so-called rent amendment that I am calling up, but I think if we could get straight the time that we have on the amendment, it might be helpful to Senators.

Mr. ROBERT C. BYRD. Mr. President, at the time the agreement was reached yesterday, the distinguished Senator from Florida was not on the floor. As I understand, he had indicated earlier in the day that he was going to propose a rent control amendment.

When I proposed the agreement on a rent control amendment, the agreement I had in mind was as to the amendment to be offered by the Senator from New Jersey (Mr. CASE). Because of this misunderstanding, I would hope that the distinguished manager of the bill would agree to yield 15 minutes from the time on the bill to the distinguished Senator from Florida (Mr. CHILES), so that he will have the full 30 minutes on his side of his amendment.

Mr. SPARKMAN. I am very glad to yield that time to the Senator from Florida.

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

Mr. CHILES. Mr. President, I yield myself such time as I may need.

Mr. President, I introduced yesterday my amendment to reinstate mandatory rent controls, and to roll back the increases which have occurred since phase II ended January 11, 1973.

My amendment No. 42 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.

The program of rent controls under phase II was not perfect, but, toward the end of the program I believe it was working pretty well. If my mail from Florida is typical, then the country as a whole was pleased with phase II rent controls, and dismayed by what happened when they were lifted.

Phase II did not burden landlords oppressively. It allowed moderate rent increases and it permitted landlords to pass on to their tenants increases such as taxes and service charges. But phase II also protected tenants, many of whom are now subjected to a squeeze from which they have no escape.

There seems to be evidence that before phase II got rolling, and before the kinks in the system were worked out, some landlords actually got rent increases, within the control guidelines, which for one reason or another they had not tried to impose before. Then the ending of mandatory controls in January gave landlords a new justification for further rent hikes. This goes to show that it is hard to get down off a set of controls without hurting people. It does not show that the controls were not needed in the first place, or that they should not be continued.

We have had a lot of unreasonable rent increases since January, coinciding unfortunately with the sharp rise in the cost of food. This is really hurting the elderly, people retired on a fixed pension or on social security. Many of them write me that the large rent increases they face now leave them unable to make ends meet. My amendment provides that these recent increases would be rolled back, to the extent that they go beyond the guidelines.

I do not want to deprive the rental industry of its fair profit, nor to drive new capital out of the rental construction market. There could not be apartments available for rent if building owners were unwilling to build and rent apartments. But I also do not want to see that large part of our society, which must use rental housing, subjected to unreasonable demands and costs. I want a situation in which a landlord can afford to rent decent, well-maintained space to an elderly couple or an individual on social security. And while I would not want them guaranteed that they could keep their apartment forever. I do understand how much harder it may be for them to uproot themselves, and seek cheaper accommodations elsewhere, than such a move might be for a young couple with good prospects for a rising income.

I am not afraid that landlords will decide, because of rent control, to go out of business: I think we can pass a rent control amendment to S. 398 which will not strike fear into the hearts either of the construction industry or of rental housing management. What I am afraid of is that when we fail to reactivate phase II rent controls, I will have to sign letters to people down in Miami or Tampa telling them that the laws of economics are against them. I do not want to have to tell the pensioner or the struggling veteran, with his first job, that Congress has decided he better pay up or move out.

In a given community where there is a certain percentage of vacant rental housing theoretically available, there are going to be many cases where that housing is not actually or reasonably available to the tenant, who must move or pay a greatly increased rent. This may be because available vacancies represent an unacceptable change of life-style for an elderly person; or a move too far from his job for a lower income worker. It may be that the landlord can afford to wait for a tenant willing to pay more, better than his present tenant can afford either to move or to pay the increase demanded. The law of supply and demand may very well work over the long haul to keep rents in general within reason: But since January 11 our experience shows that the many exceptions to this economic law are causing real hardship.

This is why I have proposed this amendment, which does not limit the application of rent control to areas where there is a certain low level of rental vacancies. My mail shows that landlords have raised rents—and that tenants are hurting—in areas where the "rental vacancy rate" rule says there should be no problem. I would rather go where the problems are, and fix them, than assume, as the Case amendment does, that there is no problem except in arbitrarily defined areas.

I think that, if there are economic reasons for a lack of properly priced rental housing, we should consider how those reasons can be overcome so that as soon as possible everyone can be decently housed, without a complex system of checking and reporting and enforcement of Government rules.

But, I also believe that it is a great injustice to those who can least afford more expensive housing, to tell them that they are the chosen victims of a decision to let the market seek its own level. I think that is what I will have to tell my constituents unless we enact an extension of phase II rent controls such as I propose today.

To overcome objections that rent controls discourage new investment in construction, or proper maintenance of existing facilities, my amendment specifically allows owners of new buildings to charge the rental market value. It allows landlords to pass through to their tenants actual increases in maintenance and operating costs. It aims not at the owner who conscientiously wants to make a living providing housing, but at the man who sees an opportunity to take advantage of his tenants and to make some unearned dollars.

And I want to point out here that if critics of rent controls believe construction of new rental housing is discouraged by rent controls, then the very last place in which controls should be imposed is the very place where there is the greatest shortage of rental housing. But that is just what amendment 22 proposed to the committee—by Senator CASE—would do. I say that the object of the operation is not to use the absence of rent controls to encourage appropriate building and leasing; but to protect people threatened by rent rises they cannot meet, while we get about the business of adjusting the overall machinery so that housing is available at reasonable rates without Government controls.

I also understand that administration of rent controls prior to phase III consumed almost two-thirds of the man-hours of the President's economic stabilization personnel. This is a startling statistic, in view of the wide sweep of economic stabilization measures which were undertaken. However, I believe it is true that much of this large output of effort in the rent control portion of the program went into setting up the machinery to cope with a problem which affects communities all across the country. Now that that machinery is in place—and I think it was functioning pretty well when phase II ended—it should operate much more economically in the future. The Internal Revenue Service has the capability to continue the good work it was doing up until January 11, in this field. My amendment would have the effect of rearming the IRS with the powers which made it effective in rent control under phase II.

When the President last January took mandatory restraint off rents, his action inspired a wave of rent increases which were not justified by rising costs. These are the increases which I want to roll back. Under the guidelines in my amendment, and in Senator CASE's amendment, there will be every opportunity for landlords to obtain justifiable increases, but it will not be possible for them to go beyond the limits of reason penalizing especially the elderly, the retired person, the members of our society who are least mobile and most vulnerable to inflation. My amendment, unlike Senator CASE's would help these people wherever they live, not just in certain areas. I hope Senators wil agree with me that in extending the Economic Stabilization Act, we should see to it that stability in rents is restored.

Mr. President, I think we should end controls in this area and in every other area as soon as we possibly can, but until we have turned the economy around and stopped the inflationary spiral, I think that we should certainly not remove controls from rents, because this affects and hurts those people that are the most punished by inflation and least able to cope with it, because they are on fixed incomes or on a fixed salary and do not adjust themselves to the inflationary spiral. They are the people who are being hurt so much as the grocery prices go up and everything else goes up that is not under controls. When we release rents and see the tremendous increases that have occurred since the controls were

lifted in January, we understand the plight of these people.

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

Mr. CHILES. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 15 minutes remaining.

Mr. CHILES. I yield.

Mr. MATHIAS. I wish to ask the Senator a question. I am very sympathetic with the purpose of his amendment, and I agree with the premise he has laid down, that many people are suffering as a result of exaggerated rent increases. But I am wondering if there is any provision in his amendment for a public hearing on the part of the Government, either before rent controls are imposed or in the period immediately thereafter, so that all the factors may be considered and so that there can be a public record of the various interests that are involved, either beneficially or prejudicially.

Mr. CHILES. No, there is no provision for that in the amendment as it is now written.

Mr. MATHIAS. Would the Senator have any objection to including in his amendment some provision for public hearing, so that there can be a clear exposition to the public of just what is being done and the reasons for it?

Mr. CHILES. I would have no objection to a provision such as that, so long as we are going forward with the reestablishment of some controls.

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

Mr. CHILES. I yield.

Mr. HUMPHREY. I hope the Senate will support this amendment. The explanation given to us by the Senator from Florida indicates that he has taken into consideration all the alleged problems that come under a rent control system; namely, the importance of new construction, the incentive for giving some flexibility to include within the rental structure increased costs, taxes, services, the products or the improvements in operation and maintenance. It is a sensible amendment.

All over the Nation, particularly where people on fixed incomes live—the elderly, and in this great metropolitan area of the District of Columbia and Virginia and Maryland, where a number of people live who are on salaries—they have suffered very serious rent increases. This is characterized all across the land, in every major city.

The senior Senator from Minnesota (Mr. MONDALE) and I have just returned from some hearings in Minneapolis, and a week ago I was in Saint Paul—the two largest cities of our State. We have been listening to the people; and if there is any one thing that is bothering a number of our people, it is the rise in the cost of living, first in food and second in rentals.

I vigorously support this amendment. Had I been here yesterday—I had to be in Minnesota for public hearings yesterday—I would have asked the opportunity to join the Senator from Florida in the sponsorship of this amendment. I think it is the most practical approach we have had presented to us. I commend him for his craftsmanship in designing this amendment and in his lucid and very revealing explanation of its purpose and its impact.

Mr. CHILES. I thank the distinguished Senator from Minnesota. I would be delighted to have him join as a cosponsor of the amendment.

Mr. HUMPHREY. I very much appreciate that.

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

Mr. CHILES. I would like to reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BENNETT. Mr. President, representing the manager of the bill, I yield myself 2 minutes.

We are operating under a rule of germaneness, and I submit that nothing in this bill as it came to the floor has anything to do with mandatory rent controls. Therefore, I raise the point of order that the amendment is not germane.

The PRESIDING OFFICER (Mr. HELMS). The Chair rules that while the proponent of the amendment has time for debate remaining under control, it is not in order for another Senator to make a point of order against the amendment on the ground of nongermaneness nor while the mover thereof is addressing the Senate.

Mr. BENNETT. I will withhold my point of order, and then hope that the proponent of the amendment will use up his time.

The PRESIDING OFFICER. Who yields time?

If no one yields time, time runs equally against both sides.

Mr. TAFT. Mr. President, I ask unanimous consent that a member of my staff, Mr. Rodney Solomon, may remain on the floor during the discussion of this bill.

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

Mr. BENNETT. Mr. President, I suggest the absence of a quorum, and I ask unanimous consent that time be charged equally against both sides.

The PRESIDING OFFICER. Is there objection?

Mr. CHILES. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. CHILES. Mr. President, I yield back the remainder of my time, so that we can get to the issue in question.

The PRESIDING OFFICER. The Senator has yielded back his time.

Mr. BENNETT. I yield back my time in support of the bill.

Mr. President, I make the point of order that the amendment is not germane.

The PRESIDING OFFICER (Mr. HELMS). The amendment introduces new subject matter not covered in the bill and, therefore, is not germane.

Mr. HUMPHREY. Mr. President, is the point of order debatable?

The PRESIDING OFFICER. The Chair is advised an appeal would have to be taken in order to debate it.

The Chair advises the Senator from Minnesota that the agreement reads that debatable motions or appeals shall be limited to 20 minutes.

Mr. HUMPHREY. Mr. President, I appeal the ruling of the Chair.

The PRESIDING OFFICER. The appeal is noted.

Mr. HUMPHREY. Mr. President, the amendment before us relates specifically to the text of the bill that is being extended. S. 398, which is the bill before this body to which the amendment has been offered by the Senator from Florida, is a bill to extend, and I underscore the word "extend," and amend the Economic Stabilization Act of 1970. That language under any reasonable and sensible interpretation means two things: First, that we could either extend it, as it is, or second, amend it. When I say "it" I mean the act, Public Law 92–210, 92d Congress, S. 2891, passed December 22, 1971.

Title II of that act, section 203 bears the caption "Presidential Authority." Subsection (a) states:

> The President is authorized to issue such orders and regulations as he deems appropriate, accompanied by a statement of reasons for such orders and regulations, to—
>
> (1) Stabilize prices, rents, wages and salaries at levels not less—

Now, the amendment of the Senator from Florida relates directly to the basic legislation known as the Economic Stabilization Act adopted in this body in 1971. This amendment relates specifically to the whole subject of price and wage control, or what we call economic stabilization.

The bill before us, S. 398, is designed to extend and amend the Economic Stabilization Act. That Economic Stabilization Act, first in 1970 and in 1971, has within its text the subject not only of wages and prices, but also rents. As I understand it, there was an amendment discussed in committee on rents.

Mr. CHILES. The Williams amendment.

Mr. HUMPHREY. It was rejected on an 8-to-8 tie vote, which indicates the committee that has legislative jurisdiction over this legislation felt that the amendment was germane; otherwise why would it spend its time on discussion, and secondly, have a rollcall vote.

The unanimous-consent agreement cannot violate the rules of this body, nor can it alter substantive legislation. Substantive legislation under economic stabilization includes the word rent or rents. That is the legislation that is being extended and amended, and this amendment of the Senator from Florida falls within the context of an amendment or an extension of an act and it is incredible on its face that we can say this is not germane.

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

Mr. HUMPHREY. I yield.

Mr. PROXMIRE. The fact is that when the unanimous-consent agreement was drawn up, a rent control amendment was included in the unanimous-consent agreement. We discussed at length the Case amendment on rent controls.

If this kind of ruling is going to stand

they are not going to get any more unanimous-consent agreements this year.

Mr. HUMPHREY. The Senator can rest assured that they will not. That is out.

Mr. PROXMIRE. They would not permit the Chiles amendment to be debated on the merits.

Mr. HUMPHREY. If the subject of rent controls which was discussed within the unanimous-consent request was germane then, it is germane now.

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

Mr. HUMPHREY. I yield.

Mr. CHILES. The unanimous-consent agreement which is printed on the calendar for today states that there shall be time allotted, 1 hour, to the so-called rent amendment. How in the world, can the Senator tell me, can there be a so-called rent amendment, and then to have a holding that the amendment is out of order. The language to which I refer appears in the unanimous-consent agreement which is on the face of the calendar today. It is beyond me and it is impossible for me to comprehend how the will of this body can be thwarted to speak up or down on this amendment.

Mr. HUMPHREY. The Senator from Florida has brought forth the unanimous-consent agreement that was arrived at on March 19. One has only to read the agreement. I say to both the Parliamentarian and the distinguished officer of the Chair that it reads as follows: "the so-called Rent Control Amendment, on which there will be 1 hour;"

This is the so-called rent control amendment. This is not the Chiles rent control amendment, but it is rent control.

Mr. CHILES. Mr. President, if the Senator will yield, can the Senator tell me why it is not the so-called rent control amendment?

Mr. HUMPHREY. I just wanted more personal identification. I do not want to go along with some ambivalence or nonentity in the title.

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

Mr. HUMPHREY. I yield.

Mr. SPARKMAN. If the Senator will read the unanimous-consent request a little further on he will find this language:

Provided, that, no amendment that is not germane to the provisions of the said bill shall be received.

I wish to say that I was taken off the floor recently under the provision of germaneness when I offered an amendment or tried to offer an amendment to a bill out of the Committee on Agriculture and Forestry in which I simply proposed that rural housing be covered by the Senate bill.

Now, rural housing is in the preceding legislation. There is no question about it. The Senator from Minnesota knows that. But it was not in the bill that was reported by the Committee on Agriculture and Forestry, and a member of the Committee on Agriculture and Forestry raised the question of germaneness. My amendment was ruled out.

I just cannot agree with the Senator in his argument that because it was in the bill two steps back the germaneness would go all the way back there. The language says germane to this bill, and this is the bill.

Let me say that when my rural housing went out I felt badly; it was difficult, but I took it. This is in accord with the rules of the Senate, and I think that we ought to abide by the rulings of the Chair.

Mr. HUMPHREY. Mr. President, there is a great deal of difference between an amendment on a rural housing feature or environmental bill——

Mr. SPARKMAN. Would the Senator say it depends upon whose ox is being gored?

Mr. HUMPHREY. No, it does not depend upon whose ox is being gored or whose house is being built, but this amendment was included within the basic context—at least the subject matter—of the unanimous-consent agreement. That within itself would make it germane. Secondly, it is not irrelevant to consider this amendment within the total concept of the basic Economic Stabilization Act, of which the bill before us is an extension and a provision for further amendment. I think the relevancy of that argument is obvious.

But more important, may I say most respectfully to this body and to our distinguished Presiding Officer, if the Case amendment on rent control is a germane amendment to the bill before us, without any regard to the basic Economic Stabilization Act, then the subject of rent control and whatever variation may be proposed by the Senator from Florida is likewise germane.

The germaneness of the subject of rent control was taken care of in the language which says—

the so-called rent control amendment, on which there will be 1 hour.

Germaneness is presumed by the fact of the mention of the rent control amendment, because if a rent control amendment is germane under the unanimous consent, no matter who is its author, then a rent control amendment here offered by the Senator from Florida, with some understanding on the sharing of time with one of the other authors of the rent control amendment, is germane.

Mr. ROBERT C. BYRD. Mr. President——

The PRESIDING OFFICER. The Senator from West Virginia. Who yields time?

Mr. HUMPHREY. I yield, of course, Mr. President, to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I was off the floor temporarily. Am I correct in understanding that a point of order has been made against the rent control amendment on the basis that it is not germane?

The PRESIDING OFFICER. The Senator is correct.

Mr. ROBERT C. BYRD. Mr. President, I would hope that the point of order would not be pressed. The leadership, in getting the agreement on yesterday, was not informed at that time that the rent control amendment was not germane. It is true that the agreement provided the no nongermane amendments would be in order, but the rent control amendment was specifically provided for in that unanimous-consent agreement, and while it is not germane, I would hope that the Members of the Senate would, under the circumstances, allow the Senator who is proposing his rent control amendment to get an up-and-down vote on his amendment.

The leadership did not enter into this agreement with any thought that it would put anything over on the membership and that we would slip a nongermane amendment in without Senators knowing about it. The leadership proposed the agreement in good faith, and I would hope that the point of order would be withdrawn.

The PRESIDING OFFICER. Will the Senator withhold? The time of the Senator from Minnesota has expired.

Mr. SPARKMAN. Mr. President, do I have time?

The PRESIDING OFFICER. The Senator from Alabama has 10 minutes.

Mr. SPARKMAN. Mr. President, let me say this to our leader. He referred to the nongermane provision being slipped over on Members of the Senate. As a matter of fact, when this unanimous-consent request was made, and all of these different ones were spelled out, this one was added. It was not slipped over; it was made part of the unanimous consent request, and it is in keeping with others that have been made.

I was taken off the floor the other day on the question of nongermaneness. I recognized the force of the ruling of the Parliamentarian. I did not argue it. I did not appeal from the decision of the Chair, because I knew it was right under the unanimous-consent request that had been agreed to.

I will say this to the Senator from West Virginia: I am afraid he is letting himself in for trouble in the future. If I ever have an amendment to a bill and the request is made that it must be germane, I am going to do one of two things—I am either going to object to it or I am going to insist that my amendment be named as one to be considered. I suppose every Senator in here would do the same thing, and I think it would cause considerable trouble.

Mr. ROBERT C. BYRD. Mr. President, first of all, the reference to slipping something over was not meant to apply to the Senator from Alabama——

Mr. SPARKMAN. And these other Senators. The request was made in the well of the Senate by the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, who has the floor?

Mr. SPARKMAN. I do. Does the Senator want me to yield to him?

Mr. ROBERT C. BYRD. I would be glad to have him do so.

Mr. SPARKMAN. I shall be glad to do so. How much time?

Mr. ROBERT C. BYRD. As much time as I need.

Mr. SPARKMAN. I have but 10 minutes.

Mr. President, how much time do I have left?

The PRESIDING OFFICER. The Senator has 9 minutes.

Mr. SPARKMAN. Nine?

The PRESIDING OFFICER. Yes.

Mr. SPARKMAN. And the Senator from Texas wants some time. If the Senator will tell me how much time he wants, I will be glad to yield to him.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that I may speak for 3 minutes without the time being charged against either side.

Mr. SPARKMAN. Mr. President, I have the floor. Do I not?

The PRESIDING OFFICER. Yes.

Mr. SPARKMAN. Now I will yield 3 minutes to the Senator from West Virginia.

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

The reference which I made to "slipping something over" was applicable to myself, because I was the one who presented the agreement, and I just wanted Senators to know that I entered into that agreement and proposed it in good faith, and there was no effort on my part knowingly to make any nongermane amendment in order.

The second point I make is that the Senator is correct. When a point of germaneness is ordinary raised and the Chair rules that an amendment is not germane, I have no quarrel with that situation; but in some cases a unanimous-consent agreement is entered into specifiying certain amendments, and applying a broader limitation on those amendments, without the leadership's knowing at the time that those amendments might not be germane. The Senator knows how we enter into these agreements; the leadership works with the managers of the bill and with the leadership on the other side of them and we try to get a time limitation on them. A Senator says, "I have an amendment that does thus and so but I want additional time." We do not take the time—perhaps we should—to go to the Parliamentarian to see if that amendment will be germane. So try to get additional time on that amendment. But once we have accorded a Senator the additional time and included it in the agreement, I think that is an amendment that ought to be accorded a vote up or down.

This is not the first time this has happened, Mr. President. We have had agreements heretofore in which certain amendments not germane were specified, but we proceeded then to vote on those amendments. So this is not setting a precedent.

I think the suggestion I am making—to wit, that we allow the rent control amendment to come on in in view of the fact that it was explicitly provided for and thus excepted from the nongermane provision, not by intent, but in actuality that is what occurred—is not a precedent; in the past we have allowed such excepted amendments to be voted up or down even though they were not germane.

Am I correct, Mr. President?

The PRESIDING OFFICER. When the unanimous-consent agreement allows a specific amendment in addition.

Mr. ROBERT C. BYRD. So am I correct that this is the way we have handled such situations?

The PRESIDING OFFICER. The Senator is correct.

Mr. CHILES. Mr. President, a point of inquiry.

Mr. ROBERT C. BYRD. Mr. President, I hope we would follow precedent and in this instance let the Senator have a vote up or down on his amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. TOWER. Mr. President, will the Senator yield me 2 minutes?

Mr. SPARKMAN. I yield 2 minutes to the Senator from Texas.

Mr. TOWER. Mr. President, it is my understanding that the amendment of the Senator from New Jersey (Mr. CASE) on rent control was part of the agreement, and therefore it could be taken up under the rule of germaneness and voted on, for or against. It would seem to me, in the interest of orderly procedure, that we could take up the amendment of the Senator from New Jersey, and if the Senator from Florida sought to amend it with his own amendment, then it would be in order and it would be germane.

The PRESIDING OFFICER. That would be the interpretation of the Chair.

Mr. ROBERT C. BYRD. Mr. President, will the Senator yield me 1 more minute?

Mr. SPARKMAN. I yield.

Mr. ROBERT C. BYRD. The only reason why I made the reference to the specific amendment by the Senator from Florida was that the identification of his amendment comes under the so-called same definition that we used yesterday in getting the agreement. I was under the impression that he was going to be allowed an hour on his amendment yesterday, and, as I indicated, when we got the agreement I was under the impression that it was Mr. CASE's amendment we were talking about as the rent control amendment.

So, perhaps the Senator from Florida would be willing to proceed as the Senator from Texas has suggested and offer his amendment to the amendment of the Senator from New Jersey, so that we could have an up or down vote on the rent control amendment in view of the fact that it was excepted from the germaneness provision.

Mr. SPARKMAN. Mr. President, I am willing to yield back the remainder of my time. I have no objection to the proceeding.

The PRESIDING OFFICER (Mr. HELMS). Does the Senator from Minnesota insist upon his appeal?

Mr. HUMPHREY. Mr. President, would the Senator from Alabama yield me 1 minute?

Mr. SPARKMAN. Mr. President, I will not yield back the remainder of my time at this time. I yield 1 minute to the Senator from Minnesota.

Mr. HUMPHREY. Mr. President, do I understand that the Senator from West Virginia asked the Senator from Florida if he would offer his amendment as an amendment to the Case amendment?

Mr. ROBERT C. BYRD. Mr. President, I thought that might be a way out of our dilemma.

Mr. CHILES. Mr. President, I want to ask the Senator from New Jersey whether, if the amendment is offered as a substitute to his amendment, he feels it would be fair. We would vote first on my amendment, and if it passed it would carry along with his amendment. If it failed, we would vote on the Case amendment.

Mr. CASE. Mr. President, will the Senator from Alabama yield me 1 minute?

Mr. SPARKMAN. Mr. President, I yield 1 minute to the Senator from New Jersey.

Mr. CASE. Mr. President, I want to accommodate everybody. I think we are in a bit of a box. I intend to vote for the Chiles amendment, and he intends to vote for mine.

I do not want any misunderstanding about individual views on this thing. I think that either one will do the job. If it will resolve the parliamentary tangle without setting a precedent, I would be glad to follow the suggestion of the acting majority leader with the understanding that my amendment might not be ruled out of order.

Mr. President, I ask unanimous consent that, whatever might be done, my amendment be considered in order.

Mr. ROBERT C. BYRD. Mr. President, I hope that the Senator will not insist on that. He can rely on the precedent and we can have a vote.

Mr. SPARKMAN. Mr. President, as far as I am concerned, I assure the Senator from New Jersey that I will not object.

Mr. CASE. Then it is satisfactory.

Mr. HUMPHREY. Mr. President, if it is agreeable with the principal sponsor of the amendment on which the ruling was made, I withdraw my appeal on the point of order provided that the Senator from Florida does not get washed out.

The PRESIDING OFFICER. The appeal is withdrawn. The bill is open to amendment.

Mr. BENNETT. Mr. President, all time has expired on the amendment; has it not?

The PRESIDING OFFICER. The Senator is correct.

Mr. BENNETT. Mr. President, I move that the amendment be laid on the table.

Mr. CHILES. A point of order.

The PRESIDING OFFICER. The amendment has been ruled out of order.

Several Senators addressed the Chair.

AMENDMENT NO. 22

Mr. CASE. Mr. President, I send an amendment to the desk and ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to state the amendment.

Mr. CASE. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment reads as follows:

On page , line , insert the following:

SEC. 2. The Economic Stabilization Act of 1970 is amended by adding the following new section:

"§ 203a. Rent stabilization

"(a) As used in this section—

"(1) 'rental vacancy rate' has the same

meaning as that adopted and employed by the Bureau of the Census in its Housing Vacancy Survey Reports for 1972.

"(2) 'low-vacancy State' means any standard metropolitan statistical area, as defined and officially recognized by the Bureau of the Census, having a rental vacancy rate lower than 5.5 per centum;

"(3) 'low-vacancy period' means, with respect to any standard metropolitan statistical area determined by the President or his delegate to have a rental vacancy rate lower than 5.5 per centum, the period beginning on the day following publication of such rental vacancy rate in the Federal Register and ending on the next following day of publication in the Federal Register of a rental vacancy rate in that standard metropolitan statistical area of 5.5 per centum or higher;

"(4) '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;

"(5) 'standard metropolitan statistical area' means any area officially so designated and recognized by the Bureau of the Census.

"(b) The President or his delegate shall make semiannual determinations of the current rental vacancy rate in each standard metropolitan statistical area and shall cause the same to be published in the Federal Register within sixty days after the date of enactment of this section and thereafter on January 1 and July 1 of each year.

"(c) Notwithstanding any other provision of law, with respect to any lease of or implied contract for occupancy of a residence in a low-vacancy area entered into during a low-vacancy period, 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 and any necessary capital improvement after the beginning of the preceding period of occupancy (and not previously charged to any lessee) and allocable to that residence.

"(d) 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 during a low-vacancy period, the rent charged during the term of occupancy provided in such lease or implied contract shall not exceed the reasonable market rental value of the residence; and the rent charged during subsequent terms of occupancy shall be subject to the provisions of this section.

"(e) In any standard metropolitan statistical area which is a low-vacancy area at the first publication of rental vacancy rates pursuant to subsection (b), 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 which would be permitted during a low-vacancy period 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.

"(f) The provisions of this section shall apply to all residential rental units except single-family dwelling units.

"(g) Nothing to this section shall be construed to invalidate the provisions of any State or local rent control laws or regulations which have been approved by the President or his delegate.

"(h) In cases where operation of this section would cause serious financial hardship 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.

"(i) No lessor shall take retaliatory action against any lessee who exercises any rights conferred upon him by this section or regulations issued pursuant thereto.

"(j) 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."

Mr. CASE. Mr. President, I modify my amendment on page 3 by adding on line 15 after the word "residence" a comma and the following: "and any reasonable increased costs of services and materials."

The PRESIDING OFFICER. The Chair is advised that it will take unanimous consent to modify the amendment.

Mr. CASE. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. There has been a specific agreement on that amendment limiting debate thereon and that is action by the Senate thereon.

Mr. CASE. Mr. President, I ask unanimous consent that the amendment be modified as I have stated.

The PRESIDING OFFICER. Without objection, it is so ordered. Will the Senator send the modification to the desk so that it might be stated?

The legislative clerk read as follows:

On page 3, line 15, after the word "residence" add a comma and the following: "and any reasonable increased costs of services and materials."

The PRESIDING OFFICER. The amendment is accordingly modified.

Mr. CASE. Mr. President, the modification adds the words "and any reasonable increased costs of services and materials" to the language that is already there. This would allow, in addition to the 2.5-percent increase over 12 months, the actual amount of any increased tax fees or service charges rendered by the local government for any necessary capital improvement.

Mr. President, I do not think we need to belabor this greatly. My amendment differs, as has already been explained, from the Chiles amendment chiefly in that it is applicable not countrywide, but only where the vacancy rate is 5.5 percent or less.

That qualification applies in terms of the metropolitan standard statistical areas and affects therefore about one-third of those areas instead of the country as a whole, with something more than 50 percent of the population of the country and a fairly large percentage of rent payers.

In many States, rent increases as high as 75 percent have been reported since the end of the phase II rent control program. Phase II was halted by Executive order on January 11, 1973.

It was only near the end of phase II that rent controls began to be effective. In the initial control program the Price Commission's Rent Advisory Board allowed rents to increase under a series of very complicated formulas. Legal rent increases as high as 68 percent went into effect.

Rent payers were justifiably outraged by a control program that had the effect of raising, rather than controlling rents. After a long series of protracted negotiations and public hearings documenting the effect of these regulations, the Rent Advisory Board finally relented and began controlling rents in a manner fair both to the rent payers and the landlords alike.

Tenants who had been obliged to pay high rent increases in the first phase were assured by the IRS that when their lease was renewed, any increase would be held to 2.5 percent.

The heart of the formula finally permitted by the phase II program was to permit a 2.5 percent increase in rent over the prior year and to allow a landlord to pass through to the tenant any increase in taxes, municipal services, and capital improvements. In practice this meant real rent increases ranging between 4.5 and 7.5 percent.

Our amendment would reinstitute this formula. It is a fair formula because it allows reasonable increases but prevents exorbitant rent hikes which have such a drastic impact on working people, people on fixed incomes, and older citizens.

I do not advocate rent controls where the marketplace is really competitive and where moderately priced apartments are available for rent. An availability of apartments for rent does serve to help keep prices down.

However, there are many parts of the country where there are few if any available apartments. In such circumstances, the tenant is literally at the mercy of the landlord unless there is some intervention to prevent very high rent increases.

In New Jersey the vacancy rate for moderately priced apartments—apartments renting in 1970 at a price of $90 to $150—is 2.6 percent. This is an effective vacancy rate of zero when one accounts for normal turnover in apartment rentals.

The average rental vacancy rate in standard metropolitan statistical areas for the fourth quarter of 1972 was only 5.4 percent. In general, it is a fair assumption that when the availability of apartments falls below the average vacancy rate in metropolitan areas there is a strong tendency for rents to increase out of proportion to increases in costs.

Accordingly, my amendment calls for the application of rent controls wherever the vacancy rate falls below 5.5 percent in standard metropolitan statistical areas.

Our amendment to the Economic Sta-

bilization Act specifically exempts new housing from economic controls. So it presents no barrier to an aggressive building campaign.

Moreover, the Federal control program is a short-term effort to control inflation. On a long-term basis those States where there is a shortage of housing and continuously rising rents will have to take action on their own to control prices. Meanwhile, however, continuation of Federal controls is essential to maintain a measure of stability until the States that need them have adopted control programs.

Last December, when it was indicated the phase II program would be modified, Senator JAVITS, Congressman REID, and I sought to explain to the Price Commission the dangers inherent in ending the rent control program. We warned then that exorbitant rent increases would occur unless controls were extended. The Price Commisison did not respond.

Thousands of complaints have flooded the Cost of Living Council since the end of phase II. Moreover, most of the complaints thus far have come from tenants who have month-to-month leases. Those who have long-term leases now await their expiration fearfully.

In recent weeks we have made every effort—through correspondence, telephone calls, and personal meetings—to get the Cost of Living Council to respond to the need.

No affirmative action has been taken. While the Council has given the Internal Revenue Service the authority to hear complaints, there is no effective procedure to enforce a rollback and no guideline whatever on what is or is not a fair limit. Neither landlord nor tenant nor the IRS know what to do.

The tenant is encouraged to complain but is, at the same time, left with no protection against retaliation by landlords and eviction proceedings against them. Under phase II here were many unfortunate episodes of this kind but there was some small measure of protection afforded tenants whose complaints were investigated. There is no such protection under phase III.

Under the basic law the Cost of Living Council could impose rent controls. But this power has not been used and everyone from the President on down has refused to apply controls. The only viable alternative is to amend the Economic Stabilization Act and place an equitable statutory percentage ceiling and rent formula on apartment rentals in areas of scarcity.

I urge my colleagues to support this amendment.

Mr. President, since I have completed my statement, the Senator may want to make his motion at this time.

Mr. CHILES. Mr. President, the Senator would have to yield back his time before I could move to substitute my amendment.

Mr. JAVITS. Mr. President, I hope that the Senator will not do that until I have had an opportunity to speak.

Mr. CASE. Mr. President, I would not want to preclude the right of anyone to speak. I appreciate the Senator's reminding me of the rule.

This is terribly necessary in areas like New Jersey where the vacancy rate is for all practical purposes is nothing, because a vacancy rate of 3 percent or less is in effect no vacancy rate. It merely allows for the normal slippage of people who have to be constantly on the move. This applies to people who are very often movers in our part of the world and in the State of New Jersey in particular.

I might say to my colleagues that I do not like rent controls. I would much prefer that we did not have to have them. It involves another rigidity in our society and our economic system that is most unfortunate. However, we have no alternative, at least in those areas where the law of supply and demand will not produce any kind of equity and where, in effect, the owners of rental property have a monopoly situation going for them.

This situation makes it possible for them to raise rents anywhere up to 80 percent or more, as they have done in my State. We made a tremendous effort to get a reasonable solution to the rent control matter under phase II.

Finally, toward the end of that period, we managed to accomplish this. Now everything will be swept away by the stroke of a pen because the administration does not want to have rent control included in phase III.

The alternatives that have been suggested by the administration are completely unsatisfactory and will not be effective. I therefore urge my collcagues to support this amendment.

Mr. President, I am happy to yield to the Senator from New York if he will leave me 2 minutes at the end of his remarks.

Mr. JAVITS. Mr. President, how much time remains?

The PRESIDING OFFICER. Twenty-six minutes remain.

Mr. JAVITS. Will the Senator yield me, say, 5 minutes?

Mr. CASE. I yield 5 minutes to the Senator from New York.

Mr. JAVITS. Mr. President, I will simply adopt what the Senator from New Jersey has said about his State for the New York suburban area. Long Island and other counties like Westchester, Dutchess, and Rockland, involving literally hundreds of thousands of people. I am sure that the same thing applies also to suburbs around other major metropolises which have similar problems, because this is not local, it is national in scope.

Mr. President, I understand the tradeoff in respect of rent control. The tradeoff is inadequacy of maintenance, lack of interest by the owner of the property in the improvement of the property, and depreciation of the property. In some cases in New York, we have had abandonment of properties which were marginal. This is very counterproductive, and the archetype example is Paris, which also went to the dogs because such strict rent control was continued over a long period of time.

Hence the proper, moderate method, Mr. President, is to apply rent control with reasonable flexibility to areas which reasonably have an emergency in terms of there being no competition. That is the only justification for the interposition of controls.

The next question and the proper one is. Why does not this legislature do it? In New York, the legislature has provided a great deal of local option. In other States, however, we have areas where the character of the legislature does not reflect, perhaps, a sentiment in the whole State which would be congenial to voting that kind of authority on doctrinaire though not necessarily local emergency grounds; hence it is not done.

But the national emergency problem—and this is a very pervasive problem, as Senator CASE has said—in relation to amounts of available housing persists. So the solution Senator CASE and I have come up with is an emergency application, the test being an emergency, to wit, so low a vacancy rate that there is no competition, so that rents do not have any kind of economic ceiling because of the competition which results.

And, indeed, even under those emergency conditions—if Senator CASE has not already done it he will—we expect to accept an amendment of the Senator from Maryland (Mr. MATHIAS) providing that if the facts show that rents have not been adversely affected by the lack of competition, the President may withhold the control upon such a showing. So not only is the test one of actual emergency due to a low local vacancy rate, but of performance, because in some areas landlords may exercise restraint, and in some areas associations of landlords are trying to restrain the landlords, and if those efforts are successful, we are delighted, so long as the end result of performance obtains.

For those reasons I deeply believe the amendment suggested by the Senator from New Jersey and myself is exactly tailored with a scalpel, as such legislation should be, to the particular issue which we have to meet. I do not say this in derogation of Senator CHILES at all. The two amendments proceed upon different theories. But simply in terms of the way in which to approach this problem, I think this is the way in which to tailor an amendment particularly to the need.

Mr. President, I could give the Senate many horrible examples of putting elderly people out of their homes simply through rent increases, and their being unable to do anything about it. There are enormous percentages. I shall simply incorporate a number of documents in the RECORD on that score. We all know the stories and the figures. But the important things about the Case amendment, in which I have joined, is that it is tailored exactly to the need, that it is touched off by an emergency, and that it requires, when amended by the amendment of Senator MATHIAS, a performance standard.

For all those reasons, I hope very much that the Senator will give this very essential measure of relief to the millions of people who are located in these suburban communities.

Mr. CASE. Mr. President, did the Senator from Utah wish to use some time now?

Mr. BENNETT. I will follow the Senator.

Mr. CASE. Then I yield such time as he may desire to the Senator from Maryland, who wants to call up an amendment.

Mr. BENNETT. I see. I believe I control the time on the other side temporarily.

Mr. CASE. Does the Senator want to go ahead?

Mr. BENNETT. No, that is fine.

Mr. CASE. I yield 5 minutes to the Senator from Maryland.

AMENDMENT NO. 49

Mr. MATHIAS. Mr. President, I appreciate the Senator from New Jersey yielding me a few moments to discuss the amendment that I shall offer with respect to performance standards under the rent control proposal which the Senator from New Jersey and the Senator from New York have offered.

What we are proposing is that within the first 6 months after rent controls have been imposed under the provisions of this amendment, the President or his delegate would hold public hearings in the manner prescribed in section 207(c) with respect to the rental situation to which the order applies, and that he would try to find these standards or these factual situations upon which to base a judgment for the continuation of the order: The causes of the local vacancy rates in the area, the effect of such rates on rents charged in the area, the extent to which rent increases in the area which are reasonably attributable to the vacancy rate are causing hardship to tenants, and the effect of the rates upon the well-being of the area and of the national economy at large.

I think that the findings of fact which develop from such hearings could appropriately be published in the Federal Register.

The amendment further provides that notwithstanding any other provision, the prohibitions provided in the section would not be applicable in any standard metropolitan statistical area with respect to which the President determines, on the basis of facts developed in the hearings, that they are not required to carry out the purposes of the title.

What we are doing, in short, is simply provide for a means for the public to have a say, for the public to make a record, for the public to make sure that all the relevant facts are cranked into the machinery of government, and that what is done with due regard for all of the interests involved.

So I submit my amendment, and send it to the desk.

Mr. MATHIAS' amendment is as follows:

On page 3, line 1, strike out "Notwithstanding" and insert "Except as provided in subsection (k), notwithstanding".

On page 5, line 13, strike out the quotation marks.

On page 5, after line 13, insert the following: "(k)(1) During the first six months after the President or his delegate first determines that a standard metropolitan statistical area has a rental vacancy lower than 5.5 per centum, the President or his delegate shall hold public hearings in the manner prescribed in section 207(c) with respect to the rental situation in such area. Such hearings shall, among other relevant matters, seek to elicit facts showing (A) the causes of the low-vacancy rate in the area, (B) the effects of such rate on rents charged in the area, (C) the extent to which rent increases in the area reasonably attributable to such rate are causing tenant hardship, and (D) the effects of such increases on the economic well-being of the area and of the Nation. Findings of fact developed at any such hearings shall be published at the conclusion thereof in the Federal Register.

"(2) Notwithstanding any other provision of this section, the prohibitions provided in this section shall not be applicable in any standard metropolitan statistical area with respect to which the President or his delegate determines, on the basis of facts developed at hearings during the six-month period as provided in paragraph (1) of the subsection, conducted pursuant to this subsection, that such prohibitions are not required in order to carry out the purposes of this title. Any such determination shall be published in the Federal Register within ten days after the conclusion of the hearings upon which the determination is based."

The PRESIDING OFFICER. The Chair is advised that the Senator's time has expired.

Mr. CASE. Mr. President, I am very happy to accept this amendment, and I ask unanimous consent that I be permitted to amend my amendment to include it. As I understand it this amendment will allow the President to decontrol costs after the measure has been in effect for 6 months if hardship is not found in any individual standard metropolitan statistical area.

The PRESIDING OFFICER. The amendment will be so modified.

Mr. CASE's amendment (No. 22) as modified, is as follows:

On page , line , insert the following:

SEC. 2. The Economic Stabilization Act of 1970 is amended by adding the following new section:

"§ 203a. Rent stabilization

"(a) As used in this section—

"(1) 'rental vacancy rate' has the same meaning as that adopted and employed by the Bureau of the Census in its Housing Vacancy Survey Reports for 1972.

"(2) 'low-vacancy State' means any standard metropolitan statistical area, as defined and officially recognized by the Bureau of the Census, having a rental vacancy rate lower than 5.5 per centum;

"(3) 'low-vacancy period' means, with respect to any standard metropolitan statistical area determined by the President or his delegate to have a rental vacancy rate lower than 5.5 per centum, the period beginning on the day following publication of such rental vacancy rate in the Federal Register and ending on the next following day of publication in the Federal Register of a rental vacancy rate in that standard metropolitan statistical area of 5.5 per centum or higher;

"(4) '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;

"(5) 'standard metropolitan statistical area' means any area officially so designated and recognized by the Bureau of the Census.

"(b) The President or his delegate shall make semiannual determinations of the current rental vacancy rate in each standard metropolitan statistical area and shall cause the same to be published in the Federal Register within sixty days after the date of enactment of this section and thereafter on January 1 and July 1 of each year.

"(c) Except as provided in subsection (k), notwithstanding any other provision of law, with respect to any lease of or implied contract for occupancy of a residence in a low-vacancy area entered into during a low-vacancy period 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 and any necessary capital improvement after the beginning of the preceding period of occupancy (and not previously charged to any lessee) and allocable to that residence, and any reasonable increased costs of services and materials.

"(d) 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 during a low-vacancy period, the rent charged during the term of occupancy provided in such lease or implied contract shall not exceed the reasonable market rental value of the residence; and the rent charged during subsequent terms of occupancy shall be subject to the provisions of this section.

"(e) In any standard metropolitan statistical area which is a low-vacancy area at the first publication of rental vacancy rates pursuant to subsection (b), 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 which would be permitted during a low-vacancy period 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.

"(f) The provisions of this section shall apply to all residential rental units except single-family dwelling units.

"(g) Nothing to this section shall be construed to invalidate the provisions of any State or local rent control laws or regulations which have been approved by the President or his delegate.

"(h) In cases where operation of this section would cause serious financial hardship 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.

"(i) No lessor shall take retaliatory action against any lessee who exercises any rights conferred upon him by this section or regulations issued pursuant thereto.

"(j) 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.

"(k)(1) During the first six months after the President or his delegate first determines that a standard metropolitan statistical area

has a rental vacancy lower than 5.5 per centum, the President or his delegate shall hold public hearings in the manner prescribed in section 207(c) with respect to the rental situation in such area. Such hearings shall, among other relevant matters, seek to elicit facts showing (A) the causes of the low-vacancy rate in the area, (B) the effects of such rate on rents charged in the area, (C) the extent to which rent increases in the area reasonably attributable to such rate are causing tenant hardships, and (D) the effects of such increases on the economic well-being of the area and of the Nation. Findings of fact developed at any such hearings shall be published at the conclusion thereof in the Federal Register.

"(2) Notwithstanding any other provision of this section, the prohibitions provided in this section shall not be applicable in any standard metropolitan statistical area with respect to which the President or his delegate determines, on the basis of facts developed at hearings during the six-month period as provided in paragraph (1) of the subsection, conducted pursuant to this subsection, that such prohibitions are not required in order to carry out the purposes of this title. Any such determination shall be published in the Federal Register within ten days after the conclusion of the hearings upon which the determination is based."

Mr. CASE. Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. HATHAWAY. Mr. President, I yield the Senator from Texas such time as he may desire.

Mr. TOWER. Mr. President, the committee rejected, by a tie vote of 8 nays to 8 ayes, an amendment to establish a statutory program of rent controls. The proposal would have required that the Cost of Living Council impose rent controls on those Standard Metropolitan Statistical Areas of the country which have a vacancy rate of 5.5 percent or less. Vacancy rates would be determined in semi-annual surveys. Under this program, rents could be increased by 2.5 percent per year, plus the amount of any necessary capital expenses, tax and other official charge increases. New construction would be exempted through the first rental; single family residences would also be exempt.

The committee refused to adopt the rent control amendment on two basic economic grounds:

First. Rent controls deter the investment of new capital in the construction of and rehabilitation of rental units, and thereby create further rental unit shortages and rent increase pressures;

Second. Rent controls normally do not allow adequate increases to cover capital and service maintenance and improvement costs, with the result that the quality of the existing rental stock and rental services declines relatively, and usually absolutely.

The adverse impact of rent controls on rental unit supply and quality are obviously not in the long-run interests of the affected tenants, and it was effectively the committee's judgment that such results should be avoided and other means of alleviating rent increase pressures on low- and middle-income tenants be explored. The problem is actually one of income transfer, which is a problem normally dealt with by tax-financed, direct governmental transfers to the affected individuals. In the case of rent controls, however, this transfer is made at the expense of the landlord-investor, and the effect of such an income transfer is simply to drive away investment that is badly needed in the rental housing sector.

The committee will be reviewing and probably recommending some revision of the present housing programs and policies of the Federal Government within a short time, which will have the goal of increasing the supply of and the quality of housing stock in this country, and its accessibility to all income groups. The present supply trend in housing units is favorable, with net additions to the Nation's housing stock, after household formations, running around a million per year on the average, not including the half-million mobile homes produced per year. The encouragement of this favorable supply situation, rather than its discouragement with rent controls, would help relieve any rent increase pressures that exist because of low vacancy rates.

The committee also took note of the fact that the Cost of Living Council has evaluated the rent increase situation around the country since phase III went into effect, and has determined that there is no national problem of excessive rent increases. There are a few areas of very tight housing markets, such as the Washington, D.C., area and the northern New Jersey area, where some increases have been substantial, but for the most part around the country increases have been modest and would be cost-justified under phase II rules.

Any severe local problem of rent increases due to very low rental vacancy rates could be handled, if desired, by State or local authorities, who would be the appropriate authorities to determine whether local priorities are such that long term investment in rental units should be sacrificed for the short-run cost-of-living restraint represented by rent controls. These authorities would also be the appropriate authorities to consider the alternatives of any special governmental income transfer programs to provide cash relief to affected tenants, in order to avoid the diseconomies resulting from attempting such an income transfer via rent controls.

Finally, the committee recognized that if, for any local or national emergency situation, the administration feels that the reimposition of rent controls locally or nationally is justified, the authority to so impose them still exists in the act, and the administration could exercise that authority at any time.

In view of the fact that that power does rest in the hands of the President, pursuant to the Economic Stabilization Act, I believe this amendment is not only unnecessary, but is inadvisable, as well.

I hope that the Senate will reject the amendment and allow the President the flexibility necessary to deal with this problem.

The PRESIDING OFFICER. The time of the Senator from Texas has expired. Who yields time?

Mr. HATHAWAY. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator from Maine has 25 minutes remaining.

Mr. HATHAWAY. Does the Senator from Texas desire more time?

Mr. TOWER. The Senator from Utah wanted to address himself to this question, but I do not see him on the floor.

Mr. TAFT. Mr. President, will the Senator yield me a couple minutes?

Mr. HATHAWAY. I yield to the Senator from Ohio.

Mr. TAFT. Mr. President, with some reluctance, I voted against the imposition of rent controls in areas with low vacancy rates. I was reluctant because I am fully aware that there have been many cases of excessive rent increases since phase III began in January.

Nevertheless, the past history of rent controls indicates that they are likely to cause more problems than they solve. In virtually every area which has experienced rent controls for a substantial period of time, the controls have resulted in reductions in maintenance, less investment in rehabilitation and new construction, tenant hoarding of rent-controlled apartments, eviction of those who threaten to complain of violations and even abandonment of units with marginal economic value. In addition, rent controls have proved so difficult to administer that this task consumed about sixty percent of the manhours of President Nixon's economic stabilization personnel.

Those who designed the rent control amendment attempted to eliminate some of these problems; for example, a pass-through of reasonable operating and maintenance expense increases would be allowed. It is also possible that some of the distortions I have mentioned might not become critical if the controls were of short duration. However, the likelihood that many of these problems would crop up, the tremendous administrative difficulties, and the distinct possibly that short-term rent controls would lead to an explosive rent situation once controls were again removed, brought me to the conclusion that the enactment of the rent control amendment would not be beneficial.

I have seen nothing in the studies since the committee hearings to convince me that there is any difference in the problem today. For that reason, I urge that the amendment be rejected.

The PRESIDING OFFICER. Who yields time?

Mr. CASE. Mr. President, how much time have I remaining?

The PRESIDING OFFICER. The Senator has 17 minutes.

Mr. CASE. I suggest the absence of a quorum. We are working with a technical change which we should propose.

Mr. TOWER. I suggest the absence of a quorum and ask unanimous consent that the time be equally charged to both sides.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and the clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. CHILES. Mr. President, I send to the desk an amendment to the Case amendment and ask that it be stated.

Mr. TOWER. Mr. President, a point of order.

The PRESIDING OFFICER. Until the time of the amendment under consideration has expired, another amendment is not in order.

Mr. TOWER. I am perfectly prepared to yield back the time, but I wish to make a point of order. I do not believe the amendment can be offered until the time on the amendment we are considering has expired.

The PRESIDING OFFICER. That is correct.

The Senator from New Jersey is recognized.

Mr. CASE. I yield to the Senator from New York (Mr. JAVITS), who has a suggestion for an amendment to my amendment to incorporate the substance of the Chiles amendment, producing a composite amendment, which I believe will meet the test of all of us.

Mr. JAVITS. Mr. President, in an effort to work out two problems, the Senator from Florida is prepared to propose an amendment which will do two things: One, make a test of whether there is a vacancy crisis in a given area and the insufficiency of the availability of low- or moderate-income housing as defined by the regulations, which is what, after all, we are shooting at. That takes care of the lower end of the scale. The upper end of the scale would be completely excluded from the operation of the amendment as to luxury housing as defined in given areas.

In that way, we narrow the target and serve the purpose of the amendment which the Senator from New Jersey and I have offered.

I hope very much that the Senator from New Jersey, on our joint behalf, may be able to accept and incorporate the amendment of the Senator from Florida (Mr. CHILES) on both those points into this amendment of ours.

Mr. CASE. Mr. President, I yield myself 1 minute to say that this amendment is entirely satisfactory to me and I ask unanimous consent that it may be incorporated in my amendment.

The PRESIDING OFFICER (Mr. HELMS). Without objection, the amendment is so modified.

The modification is as follows:

On page 1 at line 7, delete the period and add the words: "but including only low and moderately priced rental units.".

On page 2 at line 2, delete the semi-colon and add: "among low and moderately priced rental units as defined by the Bureau of the Census;".

On page 2 at line 6, insert after "per centum" the words: "among low and moderately priced rental units as defined by the Bureau of the Census".

On page 2 at line 11, delete the semi-colon and add the words: "among low and moderately priced rental units.".

On page 3, line 3, after "residence", insert: "other than luxury residences as defined by regulations".

Mr. WILLIAMS. Mr. President, I am pleased to join the distinguished Senators from New Jersey (Mr. CASE) and New York (Mr. JAVITS) as a cosponsor of the rent control amendment.

As a member of the Committee on Banking, Housing and Urban Affairs, I offered this amendment in committee when we considered the Economic Stabilization Act. Unfortunately, there was a tie vote of 8 to 8, and, consequently, the amendment was not accepted.

The amendment which we are again offering today provides that in every standard metropolitan statistical area in which there is a rental vacancy rate of less than 5.5 percent, Federal rent controls would go into effect. Allowable rent increases would be limited to 2.5 percent per year, and the landlord could also "pass through" the actual amount of any increases in State and local taxes and charges for capital improvements not previously charged to the lessee. In effect, no controls would be placed on newly constructed residences.

While under normal circumstances competition keeps rents at reasonable levels, where the rental market is tight—and a low vacancy rate is the best evidence of this—there is nothing to restrain landlords from increasing rents precipitously. Since housing is a necessity and since rent represents perhaps the major single expenditure of low- and middle-income individuals, I feel that it is imperative that reasonable controls be retained on this sector of the economy.

I have received numerous complaints of exorbitant rent increases from New York, New Jersey, the Washington metropolitan area, Florida, and California. Some of the increases have been as high as 80 percent, and in month-to-month tenancies the general run of increases has been 10 to 20 percent.

In the Northeast, the vacancy rate is 3.9 percent which is substantially lower than the national average of 5.6 percent, and the situation is particularly critical in many areas of New Jersey. In Newark, for example, the vacancy rate is 2.8 percent. In Trenton it is 3.2 percent, and in Paterson, Clifton, and Passaic the rate is 1.5 percent.

It is our senior citizens and those living on fixed incomes who are most seriously injured by jumps in the cost of living. Unfortunately, President Nixon has cut off funds that would increase the supply of housing for these low- and middle-income persons, and which would in turn eliminate the need for rent controls. While landlords must be insured a reasonable return on their investments, steps must be taken in areas where the supply of housing is limited to place limits on the amounts of rent that can be charged.

I feel that this amendment offers an approach which will prove equitable for landlords and which is an absolute necessity for tenants. I commend it to my colleagues.

Mr. DOMINICK. Mr. President, I plan to oppose the amendment offered by the distinguished Senator from New Jersey for two reasons. First, I believe that while rent controls might appear to benefit tenants, experience has shown that, in the long run, such controls affect tenants adversely by eventually causing shortages of rental units and deterioration of existing units. Second, I believe that adoption of this amendment would be an overreaction by the Congress; that is, we would be applying national controls to resolve problems of rent increases which appear to be isolated local problems that should be resolved by State or local authorities.

Most of us can recall the problems caused by rent controls imposed during World War II. There were serious shortages of rental units because few people would invest their money in the construction of such units when they knew it was unlikely they could get a reasonable return on their investment. Ironically, the shortages generally led to rent increases—the under-the-table variety—even as the rent controls were in effect. Tenants who were unwilling or unable to pay these illegal increases eventually found themselves evicted for one reason or another and replaced by those who would do so. I do not want to see a return to that sort of thing.

Now, let us examine the need for national rent controls. I am sure my colleagues are aware that the Cost of Living Council has looked into the rent increase situation since phase III went into effect, and found that with a few exceptions—notably here in Washington and in the northern New Jersey area—there is no national problem of excessive rent increases. For the most part, recent increases have been modest and would have been cost justified under phase II. If the Cost of Living Council is correct, and the excessive increases are isolated in a few areas, then I believe that this is a problem that can and should be handled by State and local authorities. These authorities are best equipped to determine whether the situation in their area warrants sacrificing long-term investment in rental units for the sake of short-run benefits to tenants brought about by rent controls.

Let us keep in mind that if, for any reason, the problem of rent increases should go beyond the control of State or local authorities, and an emergency situation should develop, the administration still has the authority to reimpose rent controls either on a local or national basis. If we pass the Economic Stabilization Act before us today, the administration could continue to exercise that authority at any time during the next 12 months.

In summary, Mr. President, I oppose this amendment because I believe rent controls would hurt tenants in the long run by eventually causing shortages of rental units and the deterioration of existing units, and because I believe the problem of excessive rent increases now occurring in a few isolated areas should be handled by State and local authorities, with the understanding that the administration could impose rent controls if and when such controls are required.

Mr. CASE. Mr. President, unless someone else has time he wants to yield, I shall be happy to yield back the remainder of my time. I want to point out that luxury apartments were exempted under phase II. These were apartments renting for $500 per month or more.

I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. HATHAWAY. Mr. President, I

yield 1 minute to the Senator from Texas (Mr. TOWER).

The PRESIDING OFFICER. The Senator from Texas is recognized for 1 minute.

Mr. TOWER. Mr. President, I want to ask my distinguished friend from New Jersey if he has a corrected copy of the amendment so that I can see how it reads.

I thank the Senator for letting me see it.

Now, Mr. President, I want to inquire whether the clerk has the amendment as it has been amended by the Senator from New York.

The PRESIDING OFFICER. That is correct.

Mr. TOWER. I thank the Chair.

Mr. CASE. Mr. President, with the understanding that the clerk has the correct amendment now, I am happy to yield back the remainder of my time.

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

The PRESIDING OFFICER. All time on this amendment has now been yielded back.

The question is on agreeing to the amendment of the Senator from New Jersey (Mr. CASE), as modified.

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 Calfornia (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennesee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The Senator from Vermont (Mr. AIKEN) is detained on official business.

The result was announced—yeas 50, nays 38, as follows:

[No. 48 Leg.]

YEAS—50

Abourezk	Hartke	Moss
Allen	Haskell	Muskie
Bayh	Hathaway	Nelson
Bible	Hollings	Nunn
Biden	Huddleston	Pearson
Brooke	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Cannon	Javits	Saxbe
Case	Magnuson	Schweiker
Chiles	Mathias	Stevens
Church	McClellan	Stevenson
Clark	McGee	Symington
Cook	McGovern	Talmadge
Eagleton	McIntyre	Tunney
Gravel	Metcalf	Williams
Gurney	Montoya	

NAYS—38

Bartlett	Brock	Dole
Beall	Byrd, Harry F., Jr.	Domenici
Bellmon	Cotton	Dominick
Bennett	Curtis	Eastland
Bentsen	Fannin	Ervin
Fong	Johnston	Scott, Va.
Griffin	Long	Sparkman
Hansen	McClure	Stafford
Hart	Packwood	Taft
Hatfield	Pell	Thurmond
Helms	Percy	Tower
Hruska	Roth	Weicker
	Scott, Pa.	Young

NOT VOTING—12

Aiken	Fulbright	Mansfield
Baker	Goldwater	Mondale
Buckley	Hughes	Pastore
Cranston	Kennedy	Stennis

So Mr. CASE's amendment, as modified, was agreed to.

Mr. JAVITS. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. CASE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, March 20, 1973, he presented to the President of the United States the enrolled bill (S. 583) 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 Procedures, and 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.

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. 35

Mr. PROXMIRE. Mr. President, I call up my amendment No. 35.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. PROXMIRE. 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:

At the end of the bill, add the following:

PRENOTIFICATION, PRIOR APPROVAL, AND PUBLIC HEARINGS ON LARGE PRICE AND WAGE INCREASES

SEC. —. (a) The Economic Stabilization Act of 1970 is amended by adding after section 203 the following new section:

"§ 203A. Requirements with respect to major price and wage increases

"(a) Except as provided in subsection (b), a manufacturer or service organization 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 with respect to any price adjustment subject to subpart B of part 130 of such regulations—

"(1) notify the President of any such adjustment not less than thirty days prior to the effective date of such adjustment, or, in the case of such an adjustment which took effect after January 11, 1973, but prior to the date of enactment of this section, not more than thirty days after such date of enactment;

"(2) obtain the prior approval of the President in the case of any such adjustment which takes effect after the date of enactment of this section and which, when added to all previous price adjustments of the manufacturer or service organization during its base period, will result in, or can reasonably be expected to result in, additional annual sales revenues in excess of $50,000,000;

"(3) rescind, not later than thirty days following the date of enactment of this section, any such adjustment which took effect after January 11, 1973, but prior to such date of enactment, to the extent such adjustment will result in, or can reasonably be expected to result in, additional annual sales revenues in excess of $500,000,000, unless such adjustment is specifically approved by the President;

"(4) obtain the prior approval of the President in the case of any such adjustment which takes effect after the date of enactment of this section and which, when added to all previous price adjustments of the manufacturer or service organization during its base period, will result in, or can reasonably be expected to result in, additional annual sales revenues in excess of $100,000,000; and

"(5) rescind, not later than thirty days following the date of enactment of this section, any such price adjustment which took effect after January 11, 1973, but prior to such date of enactment, to the extent of such adjustment will result in, or can reasonably be expected to result in, additional annual sales revenues in excess of $100,000,000, unless such adjustment is specifically approved by the President.

"(b) The President may exempt from the requirements of clauses (1), (2), and (3) of subsection (a) any manufacturer or service organization which agrees not to increase the weighted annual average of prices for all its products or services by more than 1.5 per centum over prices authorized or lawfully in effect on January 10, 1973, and which agrees that any price adjustment which takes effect after the date of the exemption shall reflect increased costs and will be subject to the requirements of clauses (4) and (5) of subsection (a), and to comply with such additional terms and conditions as the President determines are necessary to achieve the purposes of this title, including limitations on the maximum allowable price adjustment for any specific product or service.

"(c) In reviewing requested price adjustments under clause (4) or (5) of subsection (a), the President shall hold public hearings as provided under section 207(c), except that if the President has held a public hearing with respect to a manufacturer or service organization, he need not hold a subsequent hearing with respect to subsequent adjustments by that manufacturer or service organization unless the cumulative total of such subsequent price adjustments would result in, or can reasonably be expected to result in, additional annual sales revenues in excess of $100,000,000. Such hearings shall examine the justification for all previous price adjustments by the manufacturer or service organization during its base period as well as the justification for the requested price adjustment.

"(d) No firm or association of firms shall put into effect after the date of enactment of this section any pay adjustment subject to part 130 of the regulations of the Cost of Living Council in effect on January 11, 1973, unless—

"(1) in the case of such an adjustment which affects at least five thousand employees, it notifies the President of the proposed adjustment not less than thirty days prior to the effective date of the adjustment; or

"(2) in the case of such an adjustment

which will result in, or can reasonably be expected to result in, the payment of more than $50,000,000 in additional wakes and salaries during the twelve-month period immediately following the effective date of the adjustment, it obtains the approval of the President prior to the effective date of such adjustment.

The President shall hold a public hearing as provided in section 207(c) in determining whether to grant approval of any such adjustment which will result in, or can reasonably be expected to result in, the payment of more than $100,000,000 in additional wages and salaries during the twelve-month period immediately following the effective date of such adjustment.

"(c) Nothing in this section prevents the President from imposing additional requirements on firms subject thereto under the authority contained in this Act.

"(f) As used in this section—

"(1) the term 'base period' means the twelve-month period immediately prior to the effective date of any price adjustment, or the period from January 11, 1973, to the effective date of such price adjustment, whichever is the shorter period; and

"'(2) any other term used in this section which is defined in a regulations issued under this title and effective on January 10, 1973, shall have the meaning provided in those regulations."

(b) Subsections (a) and (b) of section 208 of such Act are amended by inserting "section 203A or" after "violates".

(c) Section 218 of such Act is amended—

(1) by striking out "The" and inserting "Section 203A and the"; and

(2) by striking out "expires" and inserting "expire".

Mr. PROXMIRE. Mr. President, this is an amendment on which 2 hours has been allowed under the unanimous-consent agreement, but I will not take anything like that time. I think we can have a vote in a much briefer time. I certainly hope so.

Mr. ROBERT C. BYRD. Would the Senator be willing to agree to a lesser time?

Mr. PROXMIRE. No. I may do so a little later.

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

Mr. PROXMIRE. I yield.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on the amendment by the distinguished Senator from Alaska (Mr. STEVENS) there be a time limitation of 20 minutes instead of an hour, the time to be equally divided.

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

Mr. ROBERT C. BYRD. I yield.

Mr. PROXMIRE. Is this the amendment that in the view of Senator STEVENS would provide authorization for the Alaskan pipeline?

Mr. ROBERT C. BYRD. I have discussed this with the Senator.

Mr. PROXMIRE. I know, but those of us who very strongly oppose that, I wonder if we would be allowed enough time.

Mr. STEVENS. I might say to my good friend from Wisconsin that sage advice has been given about our inability to amend the Environmental Protection Act with this measure. Therefore, we are going to make a statement and withdraw the amendment.

Mr. PROXMIRE. I thank the Senator.

Mr. ROBERT C. BYRD. I thank the Senator for yielding.

Will the Chair put the question on the amendment of the Senator from Alaska?

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

Mr. PROXMIRE. Mr. President, the amendment I am offering now is an amendment that provides and requires prenotification by large firms and large unions before a price or wage increase can be put into effect. The firms must notify the President and the country that that price increase will be put into effect. It would apply to large unions with respect to wage increases. It would provide that if it is a very large increase—I am going to define large and very large in just a moment—the prior approval must be required and if it has an extraordinary economic impact then, in that event, there would have to be a public hearing.

Mr. President, I offer this amendment as a compromise between the phase II wage and price control system we had and the phase III system, because in the view of many people in this country phase III is too weak; it will not do the job; and we need something stronger. The fact that phase III is too weak has become clearer even today. Just yesterday we had the announcement that the prime interest rate was increased. One of the reasons the prime interest rate was increased is the anticipation by lenders that inflation is going to increase, and almost all economists agree that the anticipation of inflation is one of the most important elements in determining the interest rate. Lenders do not want to lend money for a long time at a lower rate if it is not going to be worth as much when it is paid back. We all know the stock market has gone down since phase III was announced. Hardheaded investors think that phase III is so weak it will lead to more inflation and a recession. We have indisputable evidence of what happened in December, January, and even February to wholesale prices. It is true that phase III was not responsible for wholesale prices in December, but most experts recognize that the move to a softer, weaker method of price control, in view of skyrocketing wholesale prices was a serious blunder. Wholesale prices went up more in each of those months than in any month in the last 22 years.

We should be aware that wholesale prices today must be reflected one way or another in retail prices in the future. What has been our experience is that the increase in wholesale prices has been far less than the ensuing increase in retail prices, so the bad news on the wholesale price front in the preceding 3 months means we will have a much sharper increase in consumer prices in April, May, and June, and the reaction of the housewife and of the businessman is going to be very serious. The businessman is going to regret very much the action by the Government in moving to a softer and easier wage and price control system.

Then we also have the devaluation of the dollar. I think that almost everyone recognizes that a very important element in the necessity to devalue the dollar was the loss of confidence by the able people overseas who had hundreds of millions, indeed billions of dollars and decided that the anti-inflation program in the United States was not working; that the move to phase III was a serious mistake.

Mr. President, there are good reasons why phase III is weaker. I am not just saying it on the evidence. Take a look at what it does. First, it is a voluntary system and not mandatory. Because it is voluntary and not mandatory and it is possible for both management and labor to decide if they want to go along with guidelines, it does not have the same force.

Second, no prenotification or prior approval is required, and because of this there is far greater incentive for a businessman who feels he can get away with it to increase prices. The reason is that no refunds will be required under phase III as they were under phase II. In the event there was an action by a businessman under phase II to increase prices, he could be held accountable for the increase and required to refund the increase to customers. Under phase III this is not the case. By increasing prices he cannot lose. He may not be caught and if he is, he will be required to reduce prices but he does not have to make a refund. He can hold onto the profit. It is clear that it is softer on the man who increases prices. In other words, phase III eased the profit margin guidelines. Under phase II, the profit margin guidelines provided that a man could just take the best 2 of the preceding 3 years in order to determine the profit margin basis for computing his price. Now, he can pick the best 2 of the preceding 5 years. That means that because he has greater option it is possible for him to increase prices under phase III where he could not in the past under phase II.

Further, all of us who have kept ambiguity surrounding the 5½ percent guideline. Is it firm or not? White House staff people, such as H. R. Haldeman, and others, say it is firm, but still others say that it is not. George Shultz feels he has an agreement with the Secretary of Labor that this is not going to be a rigid guideline; Secretary Shultz, the economic czar publicly says it is a rigid guideline.

At any rate it is clear we do not have anything like the clear, crisp understandable 5½ percent guideline we had under phase II. In addition we have the hard arithmetical fact that the enforcement staff has been cut in half. There were 3,000 employees working to enforce this measure and still many experts say they could not do the job. Now, there are only 1,500 Federal employees enforcing phase III.

Mr. President, this amendment would not restore all of this. It is proper for us to move away from controls. I do not think any of us like controls. The free enterprise system does not function as efficiently with these restraints; it is not as efficient; there cannot be the same flow of capital; businessmen cannot make the same decisions on how to operate efficiently and maximize profits. But there is a timing in these matters, especially when we have these terrific increases in prices, when the dollar is in trouble and it is clear we have sharp inflation in the next few months. This is not the time for

us to proceed with the very broad and easy dismissal, in effect, of wage and price controls that phase III involves.

Mr. President, let me briefly try to explain what my amendment would do. It applies to big business; it applies to big labor, but not the overwhelming proportion of businesses that are small. These are not concentrated, and prices often are influenced by the prices of big business. The same is true with respect to wage rates.

The Wall Street Journal disclosed the other day that nonunion employees are unlikely under phase III to have wages increased by more than 5.5 percent. Under phase II they were below the guidelines. Union employees, however, were higher than the guidelines and under phase III there is every indication they are going to be substantially higher.

So, for this reason, it seems to me it is far less necessary to provide the same kind of controls for small business and for small labor—not that I have anything against either successful big business or successful big unions. I think they are fine and they are useful in the economy, but I think this is not the time to provide exemptions, which is in effect what we are providing for them.

This amendment says that, if a firm sells $50 million or more a year and increases its prices, it will have to notify in advance; except if it will sign an agreement beforehand that it will not increase prices more than 1½ percent, it will not have to notify in advance.

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

Mr. PROXMIRE. I yield.

Mr. TALMADGE. I hold in my hand a fact sheet which the Senator has placed on the desks of Senators, which indicates that the amendment applies only to firms, other than retailers or wholesalers, with more than $250 million a year in sales.

Does that mean retailers and wholesalers are exempt?

Mr. PROXMIRE. That is correct, and the reason for that is that all the testimony before the Banking, Housing and Urban Affairs Committee and the Joint Economic Committee was that retailers and wholesalers are highly competitive; that none of the examples of retailers or wholesalers could be put in the same category as the big steel companies, or the automobile companies, or some of the nonferrous industries.

Mr. TALMADGE. So the food chains would be exempt?

Mr. PROXMIRE. That is correct.

Mr. TALMADGE. One question further. Going down to the column which says that——

Mr. PROXMIRE. If the Senator will yield, I want to make a correction. I should say that under phase III machinery there is control over the food processors and distributors, so that, to the extent that they deal in food, they would be covered. This does not invalidate the guidelines for construction, or health, or food processors, but it adds additional restraints with reference to the concentrated forms of activity within the economy.

Mr. TALMADGE. Mr. President, will the Senator yield further?

Mr. PROXMIRE. I yield.

Mr. TALMADGE. Under the column having to do with public hearing, I notice under phase II there was no provision for public hearing. Under phase III there was no provision for public hearing. Under the terms of the Senator's amendment 5 percent of the firms, I presume, will be required to hold a public hearing. How does the Senator arrive at that 5 percent and what would be involved in the public hearing?

Mr. PROXMIRE. First let me say that, under the wage and price stabilization bill we passed last year, we provided for public hearings, but we permitted exemptions under some circumstances. The language, however, certainly contemplated a number of public hearings would be held during the year. What happened was that there were literally no hearings on price increases. There was a public hearing in the automobile industry after a price increase was put into effect, but this provision in the law was ignored by the administration. My amendment mandates hearings in rare cases where price increases or wage increases exceeded $100 million, and under those circumstances public hearings would be held.

We calculated—we can do that on the basis of the experience we have had—that we can anticipate about 10 public hearings throughout the year on price increases and 12 to 18 public hearings on wage increases. We think this is a limited amount and it would require no detailed exposition of what the public hearings would include except it would provide for the opportunity for public witnesses to testify and for the public to be aware of the wage or price increase.

Mr. TALMADGE. What about the confidentiality of trade secrets being disclosed in public hearings?

Mr. PROXMIRE. That is provided, as I understand it, under the basic law, and that would not be touched by this amendment.

I think I have the language of the basic law before me. It read as follows:

> To the maximum extent possible, the President or his delegate shall conduct formal hearings for the purpose of hearing arguments or acquiring information bearing on a change or a proposed change in wages, salaries, prices, rents, interest rates, or corporate dividends, or similar transfers—

This is the basic law from which I am reading—

> which have or may have a significantly large impact upon the national economy, and such hearings shall be open to the public except that a private formal hearing may be conducted to receive information considered confidential under section 205 of this Title.

So there would be the same protection for management not to have secrets disclosed at public hearings.

Mr. TALMADGE. What worries the Senator from Georgia about public hearings is that we are being outtraded and outsold around the world, and our trade imbalances are growing annually. The Senator from Georgia would hate to think——

Mr. DOMINICK. Mr. President, will the Senator from Georgia use his microphone? I cannot hear him.

Mr. TALMADGE. What the Senator from Georgia is concerned about in public hearings is the fact that our competitors overseas might have easy access to trade secrets. As the Senator knows, we are being outtraded and outsold throughout the world and our trade deficits are growing year by year.

The Senator thinks the law provides adequate coverage?

Mr. PROXMIRE. Well, it provides the same coverage it did before.

Mr. TALMADGE. No more and no less?

Mr. PROXMIRE. Yes. The amendment of the Senator from Maine (Mr. HATHAWAY) went to that point more than my amendment. My amendment does not affect that, except public hearings are required before such increases. We have exactly the same protection we had in the law last year, and neither the administration nor management has indicated it is inadequate.

Mr. TALMADGE. I thank the Senator for yielding.

Mr. PROXMIRE. Mr. President, prenotification would be confined to firms that have sales of more than $250 million and have at least 5,000 employees. Prenotification with respect to wage increases in phase II was far more extensive. This was a moderate compromise between phase II and phase III. Phase II was far more extensive. It covered 3,000 firms. This amendment would cover only 543 industrial firms, only one-sixth as many, as far as prenotification is concerned.

Furthermore, this amendment would cover only 23 percent of total sales, whereas phase II covered one-half of total sales, about 50 percent.

Phase II affected some 17 million workers. My amendment would affect only 11.7 million workers. Phase II affected about 20 percent of the labor force. This amendment would affect only about 14 percent.

So, as I say, it tries to make the move toward decontrol somewhat more moderate and limited, in view of the terrific increase in wholesale prices and the devaluation of the dollar and the many other developments that have occurred since phase III went into effect.

As far as prior approval is concerned, it would be implemented when prices rose more than $50 million or when firms raised wages over $50 million. There again, in the event firms sign an agreement not to increase prices by more than 1½ percent, they would be exempted from prior approval or prenotification. Phase II required prior approval for over $100 million. My amendment would require prior approval for firms having sales over $250 million, plus the $50-million impact.

So again, my proposal would be far more limited, and I can dramatize and demonstrate that by indicating how many firms would be affected by the Proxmire amendment compared with phase II.

Under phase II, 5,726 firms were required to secure prior approval during the time phase II was in effect. Under my amendment, using the same figures as to the size of firms and increase in prices, it would be confined to only 30 firms. Also under phase II, 45 percent of the total sales were under prior-approval requirements. Under my amendment,

only 5 percent of the total sales would be.

So as we calculate it, under the Proxmire amendment, it would result in only about 2 percent of the workload with respect to the number of firms, and, as far as the volume of sales is concerned, only about 11 percent, and there would be a dramatic reduction in paperwork.

Under phase II, 11,000 wage contracts were approved. Under my amendment only 34 wage contracts would be required to have approval.

Under phase II, some 17 million workers were covered with respect to wage increases. Under my amendment only 5.3 million workers will be covered.

Furthermore, I want to emphasize, Mr. President, that both prior approval and prenotification could be avoided under my amendment if the firm signed an agreement or abided by the guidelines and did not increase prices more than 1.5 percent.

With respect to public hearings, we have an additional provision that public hearings would be required when price increases or wage increases exceed $100 million. This is a very large increase and, of course, it has a real economic impact. It is likely to have a bellwether effect.

There was only one public hearing, and then only after heavy congressional pressure and then only after a lawsuit and only after action had been taken. It was not before the decision and, therefore, could not have that effect. The only way in which we will get public hearings in this matter is to provide for this kind of clear, understandable formula that when we have very important price increases that affect tens of millions of dollars of wage increases and affect thousands and thousands of workers, under those circumstances, there would be public hearings required.

As I say, under my amendment there would be about 10 public hearings on price increases and about 18 public hearings on wage increases.

This provision, it seems to me, is vital if the Wage-Price Stabilization Act is going to have any real bite or significance. Unless the public feels they have an effective wage-price control mechanism, there is unlikely to be any kind of cooperation in the enormous sector of the economy under control. If they know that the big unions and the big corporations are being kept in line, it is much more likely that we will get effective cooperation than if we have the feeling on the part of many people that the big corporations are able to get away with murder and the big unions are able to get away with murder, but the little guy is hit.

That feeling may or may not be justified. The answer is to let them know and give them the information. That is what my amendment would do. It would require prenotification and prior approval so that the public would know about it.

I do not know of any way in which to engender public confidence better than to give them the facts. Furthermore, the increases by big firms that involve the amounts I am talking about—$50 or $100 million in price—have a very serious inflationary impact. When labor unions negotiate a contract involving $50 to $100 million increase in wages, that has a serious, direct, and conspicuous impact on wages throughout the country.

If these things can be discussed, disclosed, explained, and justified in advance, there will be far greater cooperation and understanding. That is my third point. It will help convince the rest of the economy that they should cooperate.

Let me say that my amendment would, first, improve the effectiveness of phase III. It would do so because without this kind of provision we are likely to have the same kind of serious inflationary problems that we have had in the past with the wage-price spiral. Wages go up, because prices go up, and prices go up, because wages go up. Because the prices go up, the unions press for higher pay.

The way to avoid this spiral is to have a better mechanism. We can provide for a more effective Wage Stabilization Act if we provide for a somewhat more effective mechanism than has been provided by the administration.

Second, Mr. President, this amendment would provide for greater equity both in wages and in prices by stopping the excessive price increases before they are put into effect. Certainly if one believes that a price increase is excessive, it does not do him much good if it takes months and perhaps years before the administration is able to spot it and stop it, especially when there are no refunds. And that is the way it operates now.

What I would do to prevent that abuse would be to require prenotification so that it is possible to stop a violation of the guidelines before it occurs. Or, if they should be abridged, my amendment would require prenotification so that the public could be assured that it is justified. The same thing is true with respect to wage increases. It is almost impossible once wage increases have been permitted to roll them back and ask that wage earners refund part of their salary. We would be in trouble. We could imagine what would happen in that situation. We might have something close to a revolution on our hands. However, if the wage increase is prevented in advance, until justified, it could be workable and effective.

Most important of all, what this amendment tries to do is to restore confidence in phase III. I do not know how anyone with ears to hear or a brain to think can argue that phase III has been effective. There was a lot of argument about phase II. Many economists testified that it was not as effective as it should be. The one effective action we have had was phase I, the freeze.

Without going back to that, it seems to me that we could give phase III much more feasibility, practicality, and make it more workable if we were to provide that before they are allowed to increase prices that would have a serious economic impact, they should be required to provide notification and secure approval in advance.

I can anticipate that part of the disagreement with my amendment will be because it will be said that the big firms are not guilty of inflationary action because their increases were less than those in the other sectors of the economy.

I think we ought to recognize that what goes on in the latter phases of this kind of operation is that we have the very great power of large unions and we have the recognized and predictable impact that wage settlements by these large unions are likely to have.

We had in the beginning of phase II, as I recall, an increased wage of about 11 percent a year and for mine workers something like 15 percent a year. Some of that was catchup. Some of it was justified. We now have clear evidence that in the coming months the increases for union workers will be much above the guidelines. Indeed, Mr. Meany, the head of the AFL–CIO, who is a very realistic and capable man, said that the guideline was not rigid and that he would expect it to be somewhere near 7 or 8 percent. I am sure that he knew what he was talking about.

The reason why this amendment makes sense and the reason why Senators who vote against it, I think, will be making a serious mistake is because if they take a look at the wholesale prices and at what has happened over the past few months, I do not see how they can escape the conclusion that, absent some kind of action by the President, we will have very serious inflation in the next few months. And if we do, it will come at the worst possible time, because in the next 5 or 6 months we will have a determination of wages covering 4.5 million workers in the bellwether industries of this country.

If those increases shatter the 5-percent guideline—and there is every evidence that they will—they will be buttoned into the economy and will be inflationary for 3 years, because they are 3-year contracts.

In the event we have the kind of sharp inflation that we must expect in view of the wholesale price increases, it will be very hard to hold those settlements down in April, May, June, July, and into September without some kind of legislation of this sort. This amendment makes it clear that the Government and the public will be cooperating and that prior approval must be had, or we will have very serious difficulty with phase III. We are very likely to be on the road to much more serious inflation in the next 5 or 6 months than we had in the past.

Mr. President, I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I yield myself such time as I may require.

The proposition that is before us, at the request of the administration, is one that could provide for an orderly movement from mandatory controls under the phase II program to voluntary controls under the phase III program. It was stated to us time after time during the hearings on this bill that it was desired that we move back to a free market area as soon as we could, and that the best way to do it was through this intermedi-

ate setup which the administration has termed phase III.

The phase III program was outlined to us in a way that indicated to all of us that voluntary controls, if it is desired to call them voluntary controls, are a kind of intermediate control because the people who are subject to the controls are put under notice that if they violate the guidelines that are laid down by the Cost of Living Council, as someone said, they would be "clobbered," and someone else referred to a "shotgun in the closet."

In other words, it is not a situation of just turning things loose. Guidelines will be established, and those who are subject to the control, of such a degree as it is, will be expected to live up to those guidelines, and if they get out of step they will be brought to account.

Mr. President, as to the amendment offered by the Senator from Wisconsin, I know he is absolutely sincere in offering it and all of that, but I do not think there is any way of escaping the fact that it would necessitate the setting up of a huge bureaucracy in order to carry out the program as he would have it carried out. That is contrary, I believe, to what all of us wish.

Mr. President, I do not know whether phase III is going to work or not. But some of the best brains in the country, and certainly some of the best that came before us, definitely feel that it can be made to work, and that they intend to make it work. I believe we ought to give them that chance.

We were requested simply to extend the Economic Stabilization Act of 1970 as amended for a year. I wish we might have done that only, but the committee saw fit to add some amendment to the bill. Further amendments have been added here on the floor of the Senate. But up to this point, the bill, or at least the program that the bill provides for, remains essentially what the President requested. I believe he ought to be given the chance to work out this complex program of shifting us back to a free market or a free economy by steps—phase III would be another such step.

Mr. President, there is another point I wish to mention. The President has selected Mr. John T. Dunlop to be Executive Director of the Cost of Living Council. Mr. Dunlop came before our committee and testified. I believe that everyone felt that he was a man highly capable of performing this job, and I believe we can trust him to perform the job. I believe he indicated to us a toughness that will convince anyone acquainted with him or listening to him that he will do the job and do it well. I believe he ought to be given the chance, and I shall certainly hope that the powers we give to the President under this bill will be exercised in the way that will make the program work. I think it can be done.

I now yield the Senator from Texas such time as he may require.

Mr. TOWER. Mr. President, one of the basic assumptions underlying the prenotification amendment is that the price actions of the large firms in the economy are causing or contributing heavily to the recent, highly publicized increases in the wholesale and consumer price indexes. This simply is not so. The essential cause of these increases has been the relative scarcity of certain raw agricultural products, and to a certain extent to a scarcity of other nonfarm commodities, particularly oil, lumber, and nonferrous metals. These are commodity shortages, and are naturally reflected in higher prices. The mechanics of a free market economy are that rising demand or an inadequately growing supply will cause an increase in prices of the goods demanded, which in turn brings into the production process more resources devoted to such goods, which in turn brings more supply to the market and thereby tends to restore price equilibrium in the marketplace. This is what is occurring in the case of the above-mentioned commodities—the higher prices reflect an imbalance of supply and demand and only higher prices can bring about the satisfaction of the demand of the American people for these goods.

Wage-price controls cannot resolve the problem of shortages in the economy. Price controls can only serve to deter further resources from entering the production process, and the result will be a worsening of the shortage.

Of the seven "concentrated industries," only two have shown substantial rates of increase in wholesale prices in recent years. One industry is the nonferrous metals group, which had very high rates of increase before the freeze—on the order of 9 to 10 percent a year. These increases were basically due to the volatility of the prices of the metals involved and their relative shortage in a period of greatly increasing demand. Prices have in the last few months begun to increase again, partly due to the reduced value of the dollar abroad, and partly due to the continued strong demand trend in these metals. Rather than to take the Senate's time in reviewing this situation in detail, I will insert for the RECORD an article from the March 10, 1973, Business Week magazine describing the origins of these price increases, which I ask unanimous consent to have printed in the RECORD at this point.

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

THE ESCALATING PRICES OF NONFERROUS METALS

Like housewives surveying the latest supermarket prices, purchasing agents for the nation's industrial corporations have been rubbing their eyes in disbelief. The reason: one of the sharpest runups in metals prices in recent memory. Though almost all metals, including steel and scrap iron, have been moving higher, some of the most dramatic advances have been posted by the nonferrous group:

COPPER

The U.S. producer price of 60¢ per lb. now matches the historic high that copper touched in 1970 and is about 19% above the price prevailing just two months ago. The latest increase, the third this year, was a 4¢-per-lb. hike posted last week by Anaconda Co. and followed by all of the major producers. The move was triggered by the metal's behavior on the London Metal Exchange, where its price has been rising like a rocket; up from 53½¢ per lb. in the beginning of February to more than 67¢ early this week. With the U.S. a net importer of copper, domestic producers evidently felt they had little choice but to narrow the gap between free market prices and their own quotes.

The critical question, however, is whether the LME action is "merely a bubble caused by monetary uncertainty," as one observer puts it, or something more durable. There is little doubt that the latest exchange crisis has prompted many Europeans who are holding dollars to buy commodities as a hedge against devaluation, and that copper has found favor as a speculative vehicle. But other factors have also helped push the price up: an economic resurgence in the U.S., Europe, and Japan; recent buying by China; a refinery strike in Belgium; and a disruption in Zambian supplies caused by a border dispute with Rhodesia.

Some observers believe that once the monetary pot simmers down, the free market price will tumble, putting downward pressure on the U.S. producer quote. One bearish factor is the expected 8% rise in world copper production this year. Another is the fact that three-month futures contracts on the LME have been selling at a slight discount from prompt delivery prices, indicating that the market feels prices will be declining.

But others doubt that much price weakness is in the offing. "You can't just chalk this off to the monetary situation," says George H. Cleaver, metals analyst at Alliance One. "There's a tremendous real demand for copper, with durable goods production in both the U.S. and Japan up at least 10% from year-ago levels and European consumption also rising." U.S. producers, in fact, report that their output for the first half of this year is already "practically sold out." And some observers think another price hike is not inconceivable.

ZINC

Monetary developments also may have affected zinc, but supply-demand factors are obviously behind the 1¼ cent-per-lb. hike posted by U.S. producers so far this year. With domestic zinc production declining because of antipollution costs, a long-term shortage of the metal has been exacerbated by a strong surge in demand. Under Phase II, domestic producers were forced to hold down prices even though fast-rising imports were commanding premiums of up to 2 cents per lb. Now, the industry has apparently interpreted Phase III as a green light to bring domestic and foreign prices into line. Since zinc prices have just been raised by foreign producers and imported zinc is now commanding at least 21 cents per lb., another hike in the domestic tab of 19¼ cents per lb. is probably in the offing.

LEAD

Though there is no shortage of lead, the economic recovery is also fueling higher prices for the metal. The producer quote now is 16 cents per lb., compared with 14¼ cents two months ago. Lead's future is somewhat clouded by government plans to reduce its use in gasoline, but the Environmental Protection Agency has indicated its scheduled phaseout may be delayed. Meantime, lead used in gasoline seems to have gone up last year with greater gas consumption. And auto batteries, the metal's single biggest market, are generating strong demand.

TIN

The action in tin is strictly the result of dollar devaluation. The price of the metal, which is not mined in the U.S., had been declining since last July—so much so that the International Tin Council had to impose export controls in January to shore up prices. When the U.S. repegged the dollar in February, however, Malaysia, the No. 1 tin producer, kept its currency at the old level. Thus, though tin prices have risen only slightly in terms of Malaysian dollars, in U.S. dollars they have jumped by close to 15%. And U.S. consumers are reportedly pressuring the General Services Administra-

tion to release tin from the government stockpile to dampen prices.

Other metals are riding the price escalator, as well. Silver, which sank to a low of $1.28 per troy oz. in late 1971, is now about double that price. Though consumption has been rising, the biggest price impetus in recent months has been speculation, as all the precious metals have risen in sympathy with gold.

Prices of aluminum have also been firming, though at a somewhat slower rate than some of its nonferrous cousins. Indeed, about the only major member of the family to buck the price trend is nickel, which has been in oversupply since 1970.

Mr. TOWER. The important fact here is that the price increases in nonferrous metals are not due to the cost-push phenomenon which wage and price controls are aimed at, but rather are a product of steadily increasing demand and international monetary developments, neither of which can be dealt with by the imposition of wage-price controls on large business firms. The only development that can meet this price increase situation satisfactorily is an increase in supply, which the President is attempting to do by selling the affected metals from our stockpile surpluses. This step, plus the increased production of such metals drawn forth by higher prices, will tend to bring supply into better balance with demand. Rigid wage-price controls on the nonferrous metals industry will not resolve this problem.

The second major industry experiencing rising prices has been the oil industry, and this too is a situation of high demand and inadequate supply, not a cost-push situation. Our national policy of restricting the incentives for oil and gas exploration and production here at home is the villain of this piece, not the Congress' favorite whipping boy, the oil industry. The recent increases in prices in this industry have been caused by the greatly increased demand for oil products and a reduced domestic capacity to supply that demand. We are importing oil and gas from foreign countries now at prices we could beat domestically if we had only followed rational, long-range oil and gas exploration and production policies here at home.

Wage and price controls on the oil industry will not resolve this problem over the long run. As a matter of fact, the foreign oil companies are telling us they are going to charge us much more. The President has imposed price controls on this industry, admittedly, within the last 2 weeks, to attempt to deal with a tremendous surge in prices, again partly due to demand and partly due to the international monetary situation. Such controls will not resolve the supply problem, however, which will only be met by allowing rising market prices to cause more capital to go into exploration, production, and refining.

In any event, any need seen by the Senate to take some immediate action in the way of controls in this area has been met by selective action of the Cost of Living Council; the Proxmire amendment will not add materially to the present attempt to deal with the oil price problem. In the nonferrous metals area, the action of the President in selling metals from the U.S. stockpile will help resolve that problem, and, again the Proxmire amendment will do nothing to improve that price situation.

Of the other five major industries: motor vehicles, chemicals, pharmaceuticals, electrical machinery and equipment, and iron and steel; the rates of price increase have been very restrained, and have largely been well under the national price increase figures. We are only targeting for a national price increase rate of 2½ percent, and these industries are largely meeting and even bettering that goal already. I submit for the RECORD a table showing the wholesale price performance of the seven major industries from 1969 on, which substantiates the proposition that these industries are not responsible for any significant cost-push price increases in recent years, and ask that this table be printed at this point in the RECORD.

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

ANNUAL AVERAGE OF THE WPI FOR SELECTED PRODUCTS

Date	Iron and steel (4.958 [1])	Percent change	Nonferrous metals (3.193)	Percent change	Motor vehicles and equipment (6.621)	Percent change	Chemicals (5.716)	Percent change	Drugs and pharmaceuticals (0.781)	Percent change	Refined petroleum (3.281)	Percent change	Electrical machinery and equipment (4.227)	Percent change
1969	107.1	5.1	113.6	9.7	104.7	1.8	99.9	0.1	99.8	0.5	99.6	1.5	102.9	1.5
1970	115.1	7.1	125.0	10.0	108.5	3.6	102.2	2.3	101.1	1.3	101.1	1.5	106.4	3.4
1971	121.8	5.8	116.0	—7.2	114.7	5.7	104.2	1.9	102.4	1.2	106.8	5.6	109.5	2.9
1972	128.4	5.4	116.9	.7	118.0	2.8	104.2	0	103.0	.5	108.9	1.9	110.4	.8
1973:2	133.0	[2]3.7	121.0	5.2	118.2	.2	105.6	2.0	103.6	1.4	118.7	12.5	111.0	.9

[1] Percentage importance of the commodity group relative to all commodities in the WPI.
[2] Percentage change for February 1973 over the 12 preceding months.

Source: Cost of Living Council.

Mr. TOWER. Mr. President, in view of the fact that the so-called "concentrated industries" are not responsible for the increases in the cost of living which have concerned us in recent months, it would seem that the reversion of phase II-type controls for these industries would serve no useful purpose. We need a period of transition in order to get the Nation out from under controls and to restore economic freedom in this country, and I believe very deeply that to reject the major thrust of phase III by returning to mandatory controls on large economic units will be a serious policy mistake for Congress. A free market system is the best economic system we know of to get the maximum production and distribution of goods and services for the American people, and every time we attempt to restrict this system by artificial restraints such as wage-price controls we are imposing severe costs on the system and are impairing its ability to mobilize and efficiently utilize resources. It is time to go forward with phase III decontrol actions, rather than backward with the prenotification amendment.

I would like to point out just a few of the specific economic distortions that we will encounter if the prenotification amendment is adopted.

First. There will be a tendency for each affected firm to avoid any price reductions it would normally make, in order to avoid subsequently having to go through the proposed procedure in order to increase the price later if circumstances warrant.

Second. When a given price increase is contemplated by an affected firm, it will tend to bunch all of its potential price increases together, including some it might have postponed or even foregone altogether, so that it would only have to face the public spotlight once. This is an undesirable distortion of the natural timing pressures for price adjustments in the market.

Third. Some firms may resort to trimming back on product quality and services in order to keep cost increases from pushing them into price increase situations.

Fourth. Some firms will drop poorer profit items rather than to face the necessity of asking for price approvals, which only serves to reduce the supply of such items and to waste productive potential and existing investment.

Fifth. When price increase proposals are announced under the prenotification provision, the customers of such firms will frequently be forced to raid the existing inventories of such firms at preincrease prices, thus causing havoc for such firms and greatly distorting the future market conditions which would have supported the price increases. Unstable inventory movements in the major industries could cause serious problems throughout smaller industries across the economy.

Sixth. Where raw materials prices of a firm fluctuate substantially, delays in implementing price changes are unwarranted and will result in the firms involved absorbing substantial losses.

A word should be said about the profit picture of American businesses at this time. Profits, although recovering somewhat from the 1970 low point of the last 30 or so years, are still very low in relation to levels that we should have to encourage adequate capital investment in this country. I am introducing for the RECORD a table indicating the declining percentage of corporate profits as a proportion of gross national product in the last three decades.

I ask unanimous consent that the table be printed at this point in the RECORD.

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

GROSS NATIONAL PRODUCT, EMPLOYEE COMPENSATION AND CORPORATE PROFITS

[Dollar amounts in billions]

Year	Gross national product	Compensation of employees	Compensation as percent of gross national product	Corporate profits after taxes	Corporate profits as percent of gross national product
1929	$103.1	$51.1	49.6	$8.6	8.3
1933	55.6	29.5	53.1	.4	.7
1939	90.5	48.1	53.1	5.6	6.2
1940	99.7	52.1	52.3	7.2	2.7
1941	124.5	64.8	52.0	10.1	8.1
1942	157.9	85.3	54.0	10.1	6.4
1943	191.6	109.5	57.2	11.1	5.8
1944	210.1	121.2	57.7	11.2	5.3
1945	211.9	123.1	58.1	9.0	4.2
1946	208.5	117.9	56.5	15.5	7.3
1947	231.3	128.9	55.7	20.2	8.7
1948	257.6	141.1	54.8	22.7	8.8
1949	256.5	141.0	55.0	18.5	7.2
1950	284.8	154.6	54.3	24.9	8.7
1951	328.4	180.7	55.0	21.6	6.6
1952	345.5	195.3	56.5	19.6	5.7
1953	364.6	209.1	57.0	20.4	5.6
1954	364.8	208.0	57.0	20.6	5.6
1955	398.0	224.5	56.4	27.0	6.8
1956	$419.2	$243.1	58.0	$27.2	6.5
1957	441.1	256.0	58.0	26.0	5.9
1958	447.3	257.8	57.6	22.3	5.0
1959	483.7	279.1	57.7	28.5	5.9
1960	503.7	294.2	58.4	26.7	5.3
1961	520.1	302.6	58.2	27.2	5.2
1962	560.3	323.6	57.8	31.2	5 6
1963	590 5	341.0	57.7	33.1	5.6
1964	632.4	365.7	57.8	38.4	6.1
1965	684.9	393.8	57.5	46.5	6.8
1966	749.9	435.5	58.1	49.9	6.7
1967	793.9	467.2	58.8	46.6	5.9
1968	864.2	514.6	59.5	47.8	5.5
1969	930.3	566.0	60.8	44.8	4.8
1970	976.4	603.8	61.8	40.2	4.1
1971	1,050.4	644.1	61.3	45.9	4.4
1972	1,152.1	705.2	61.2	52.6	4.6

Note.—There has been an upward trend in the share of the GNP going to employees and a downward trend in the share going to profits.

Source: Economic Report of the President, January 1973, pp. 209, 210.

Mr. TOWER. Mr. President, this table shows that the price increases that have occurred over this long period basically have not gone to increase the share of income going to businesses, but rather have gone to pay for increased labor and resource costs. In other words, corporations have not by and large been able to administer prices and obtain unjustified profits. If anything, profits are too low now to encourage the investment that we need to increase supplies of all of the goods and services that we need, in the quantities that we desire. The prenotification amendment would only serve to deter rational price adjustments that are needed to provide adequate production, profits, and investment, and should not be adopted by the Senate.

In summary, Mr. President, the committee, in considering the specific economic distortions involved in the prenotification amendment, the fact that the major industries have not been responsible for cost-push inflation or the recent increases in the wholesale or consumer price indexes, and the fact that profits in the United States are already too low for our long-run economic health, has rejected the prenotification amendment. I urge the Senate to support the committee in this very vital matter of economic policy.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I yield myself 3 minutes.

The PRESIDING OFFICER. The Senator from Wisconsin is recognized for 3 minutes.

Mr. PROXMIRE. Mr. President, I greatly admire the Senator from Texas. I think he has an excellent mind. He is a wonderful person, and we have gotten along very well on the Banking, Housing and Urban Affairs Commitee; but although he opposes my amendment I do not know of anybody who has made my case better for me than the Senator from Texas has this afternoon.

The gist of his case as I heard it—and I listened to it as carefully as I could—is that if we take phase II, the increase in prices in the concentrated sector has not been very big, and he is right; but it makes my case.

What I would do is go back to phase II for the concentrated sector. Let us see what happened in phase III. We have the figures for the month of February; that is all we have.

We find that chemicals and allied products—and this is a highly concentrated industry—had an annual increase in phase II of 2 percent in 1972. What happened under phase III? Prices went up 6 percent.

Take metals and metal products—iron and steel. Under phase II, 3.7 percent; the annual increase in February under phase III was 12 percent.

Nonferrous metals, 2.6 percent under phase II, which I would restore; 9.6 percent, in this concentrated industry, under phase III.

Metal containers—American Can is one of the really large companies—2.9 percent under phase II. What happened when they got under phase III? A 30-percent annual increase.

Take special industries, such as machinery and equipment, another area where we have concentration, the increase was 2.8 percent under phase II; a 16-percent increase in the annual rate under phase III.

Tobacco products: We know the great tobacco industry in this country, where there is a very heavy concentration of power. Under phase II the increase was 3.1 percent. Under phase III the increase has been 36 percent in the annual rate.

Mr. President, it seems to me these figures make the case. As the Senator from Texas said so well, under phase II the concentrated industries held firm and they did hold down their prices.

If they escape into phase III, we will have exactly what we feared the most, which is that they will use their concentrated great power, the labor unions will use their power, and we will be off to the races in an inflationary wage-price spiral that we are going to regret very much 5 or 6 months from now.

Mr. President, if the Senator from Alabama and the Senator from Texas are ready to yield back their time, I will yield back my time, and we can have a vote now.

Mr. SPARKMAN. Mr. President, I yield back——

Mr. GRIFFIN. Mr. President, will the Senator from Texas yield me 3 minutes?

Mr. PROXMIRE. Mr. President, I reserve the remainder of my time.

Mr. TOWER. Mr. President, I yield 3 minutes to the Senator from Michigan on the bill.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 3 minutes.

Mr. GRIFFIN. Mr. President, I should like to ask the distinguished manager of the bill a question. Would it not be true that if the Proxmire amendment should be defeated the administration could still institute prenotification and approval program similar to that which is required by the amendment?

Mr. SPARKMAN. Yes, it could do every bit of that. In other words, under the program that the administration presented to us and the legislation they presented to us, it is left up to the Cost of Living Council, with certain guidelines, to do these things. As I said, Mr. Dunlop has been chosen to head the Cost of Living Council, and I think he impressed the committee with his capacity and his toughness—I want to emphasize that.

Mr. PROXMIRE. Mr. President, will the Senator yield for a minute on that point?

Mr. GRIFFIN. I understand that to be the situation. Obviously, the administration did have a phase II program which required prior approval, and if phase III should not work as anticipated, the administration could reinstitute a phase II approved at any time. Am I correct in my understanding that a program requiring prenotification and approval, such as contemplated by the Proxmire amendment, could be instituted by the administration at any time?

Mr. SPARKMAN. That is the way I construe it as a part of the guidelines they are supposed to establish.

Mr. TOWER. Mr. President, if I may interject here, that is correct. What

we are doing is extending the authority that existed under phase II. In other words, we are just extending the life of the act as it was in existence in 1970 with the amendments which were added in the last extension of the legislation.

Mr. GRIFFIN. Of course, I understood that to be the situation. However, I thought this point should be made clear in the RECORD.

In addition, I notice that under the Proxmire amendment as submitted, there would be the requirement of a public hearing in some situations, regardless of the percentage of increase involved. This would impose an unnecessarily rigid requirement on the Cost-of-Living Council in cases and situations where there would be no real need at all for hearings or for the bureaucratic apparatus that would be necessary to hold such hearings.

Frankly, I have some sympathy with the argument that the Senator from Wisconsin has made. I share his concern to a degree——

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

Mr. GRIFFIN. May I have 2 more minutes, please?

Mr. TOWER. I yield the Senator 2 additional minutes.

The PRESIDING OFFICER. The Senator from Michigan is recognized for 2 additional minutes.

Mr. GRIFFIN. Mr. President, I share his concern to a degree about the timing of phase III. I wonder how effective it will prove to be, but rather than trying to legislate a reimposition of phase II, I believe we should leave the responsibility where it would be under this legislation as reported.

Mr. President, I shall vote against the amendment, realizing that the administration may have to go even further than the Proxmire amendment if phase III is not successful.

Mr. PROXMIRE. Mr. President, I yield myself such time as I may require—to say in response to the Senator from Michigan, that he makes some very good points. This amendment does provide less flexibility. The administration could go on to what I propose, that is true, or something more comprehensive than I propose if they wish to do so.

The reasons I propose are twofold: One, the administration testified before the committee that phase III is what they wanted to do and that they had no intention of going to prenotification or prior approval. They did not make that as a final commitment, however. But that is what they said. Two, and this is most important of all, here is an area of congressional responsibility where we in the Congress should "bite the bullet." I understand that we must delegate authority to the President on military policy or foreign policy, but certainly with respect to the domestic economy we have had a chance to see how phase III works and I am asking for a moderate modification that would direct the administration to take the time with limited action which would be reasonable and moderate.

If we say we are leaving this to the administration in this area, it seems to me we will have given in on almost everything. So why not leave everything up to the President? Why worry about passing any legislation in these areas? Let us say that the President knows best, as he has his experts, that it is not up to us in Congress.

As a distinguished Senator said on television recently, with the attitude, "All we in the Senate would do is draw our breath and our salaries."

Mr. President, I am now ready to yield back my time.

Mr. SPARKMAN. Mr. President, I thought we had yielded back our time, but since the Senator from Wisconsin recalled his, I will recall mine and yield myself such time as I may require.

Mr. President, I want to say this, that in 1970 we enacted an Economic Stabilization Act, and in that act we gave the President the right to invoke controls, either voluntarily or mandatory, any time he wished to do so.

Now, talking about the President's making a definite commitment on this, when the President signed that bill—there were many other things in it, of course—he pointed out that we had given him the right to invoke those controls. He did not like it. He did not want it in the legislation. He said, "I have no intention of using them." Yet in August of 1971 he was indeed pleased to find that law available, and he froze wages and prices for a period of time.

He then went into phase II which provided mandatory controls. The only legislation that we enacted then was legislation more or less ratifying the setting up of the boards, commissions, and committees that had already been created. We provided a degree of review which again was in line with what the administration wanted.

When it was felt that it was time to move on from the restrictions of phase II, the President exercised that right and moved to phase III. He asked us to extend the Economic Stabilization Act in order that he might carry out the phase III program.

I do not feel that Congress should be writing a control act. Mr. President, I lived through price and wage controls in World War II and I know something about them. The distinguished Senator from Utah (Mr. BENNETT), now in the Chamber, was on the committee——

Mr. BENNETT. If the Senator will yield——

Mr. SPARKMAN. Not then—later——

Mr. BENNETT. I was trying to run a business then under the controls the Senator mentions.

Mr. SPARKMAN. And in Korea. I participated in the legislation which brought about those controls in World War II and I know the problem we had then. We enacted them in 1942. They did not come off until—well, most of them came off in 1946, but rent controls did not come off for years. We wrestled with that problem for years here before rent controls came to an end.

In 1950, Congress again enacted controls. They were not requested by the administration. We passed that act and now the Senator from Utah was with us at that time and he will remember that we passed that act in September of 1950 but we did not put it into effect. We again gave that power to the President on a discretionary basis. He could put those controls into effect when he saw fit. The Korean war was already going on. He did not put them into effect until January 1951. Those controls lingered with us a long time.

Having across-the-board controls is not a pleasant way of life, and I think in this case Congress made a wise decision when it made it dependent upon the President as to whether or not to invoke controls. I think Congress made a wise decision in connection with the initiation of phase II by ratifying what had been done during the freeze period and leaving it to the President and the boards and the committees he had appointed.

I think the wise thing for us to do now is to leave it up to the President to carry out this program. They have outlined it to us. They believe it will work. He has put a man in charge of a Cost-of-Living Council who I believe everyone who heard him when he testified before our committee felt that this is a man who really could do this job. I am in favor of leaving it to the President, to the people he has there, to the Cost-of-Living Council, and particularly to the man who directs the Cost-of-Living Council, Mr. Dunlop. I believe he will do what is necessary to make this program work, and I do not think we ought to be telling them just when to dot an "i" and when to cross a "t." We ought to leave it to them to decide if it is necessary to establish guidelines to do what the Senator from Wisconsin seeks to do in his amendment.

I think the Senate ought to reject the amendment, and I hope it is rejected.

The PRESIDING OFFICER. Who yields time?

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were not ordered.

Mr. PROXMIRE. Mr. President, I suggest the absence of a quorum, and I ask that it be taken out of my time.

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

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

Mr. PROXMIRE. 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 Wisconsin. 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 Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), and the Senator from Minnesota (Mr. MONDALE) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is 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 Minnesota (Mr. MONDALE) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY) and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 41, nays 49, as follows:

[No. 49 Leg.]

YEAS—41

Abourezk	Hart	Moss
Allen	Haskell	Muskie
Bayh	Hathaway	Nelson
Bentsen	Huddleston	Nunn
Bible	Humphrey	Packwood
Biden	Inouye	Pearson
Byrd, Robert C.	Jackson	Pell
Cannon	Javits	Proxmire
Case	Kennedy	Roth
Chiles	Magnuson	Stevenson
Church	McGee	Symington
Clark	McGovern	Talmadge
Eagleton	McIntyre	Tunney
Gravel	Montoya	

NAYS—49

Aiken	Ervin	Percy
Bartlett	Fannin	Randolph
Beall	Fong	Ribicoff
Bellmon	Griffin	Saxbe
Bennett	Gurney	Schweiker
Brock	Hansen	Scott, Pa.
Brooke	Hartke	Scott, Va.
Burdick	Hatfield	Sparkman
Byrd, Harry F., Jr.	Helms	Stafford
	Hollings	Stevens
Cook	Hruska	Taft
Cotton	Johnston	Thurmond
Curtis	Long	Tower
Dole	Mathias	Weicker
Domenici	McClellan	Williams
Dominick	McClure	Young
Eastland	Metcalf	

NOT VOTING—10

Baker	Goldwater	Pastore
Buckley	Hughes	Stennis
Cranston	Mansfield	
Fulbright	Mondale	

So Mr. PROXMIRE's amendment No. 35 was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. TAFT and Mr. MOSS addressed the chair.

The PRESIDING OFFICER. The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, I send to the desk an amendment and ask for its immediate consideration.

Mr. GRIFFIN. Mr. President, will the Senator withhold for a moment so that I may yield to the assistant majority leader on my time on the bill, for such time as may be required?

Mr. TAFT. I yield.

The PRESIDING OFFICER. Will the Senator allow the clerk to state the amendment first?

The legislative clerk read the amendment, as follows:

On page 4, at the end of line 3, strike the period and insert the following: ", but this provision shall not apply if expenditures and net lending during the fiscal year ending June 30, 1974, under the budget of the United States Government would otherwise exceed $268,700,000,000, and in that case, 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 this title, 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 therefore, 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 title 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.

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.

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 this section 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 this section.

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. GRIFFIN. Mr. President, with the indulgence of the Senator from Ohio, and while there are a number of Senators on the floor, and because there have been inquiries, I wonder if I could ask the distinguished acting majority leader if he plans to complete action on this bill this evening, and what the outlook is.

Mr. ROBERT C. BYRD. Mr. President, if I may have the attention of Senators, perhaps we can ascertain how many Senators plan to offer amendments.

Mr. President, may I have the attention of Senators?

The PRESIDING OFFICER. The Senate will be in order.

Mr. ROBERT C. BYRD. Mr. President, it was hoped that the Senate would be able to complete action on this bill today, in which event we would go over until the day after tomorrow, so as to allow committees to meet, and so on. We do not have other items on the calendar that would necessarily justify our meeting tomorrow if we are able to complete action on this measure today. However, the hour is somewhat late, and I know Senators would like to make plans if they are to have a late dinner. Therefore, I would like to ask Senators who have amendments to propose to so indicate, so we may get a reading.

There are seven amendments, as I understand it. Is that correct?

Mr. TAFT. Mr. President, if the acting majority leader would allow me, I believe that there is an amendment to the current pending amendment which will also be called up.

Mr. PROXMIRE. Mr. President, I have an amendment to the pending amendment.

Mr. ROBERT C. BYRD. May I ask if there is a willingness to cut down on the time on amendments? We have a 30-minute limitation on all amendments except that of the able Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I certainly do not intend to take the hour and a half on my side that is provided under my amendment, but I just cannot make the commitment now that I would be willing to reduce it by any amount. It would be less than an hour and a half. I wish I could assure the Senator further, but it all depends on what happens on these amendments.

Mr. ROBERT C. BYRD. Then, Mr. President, if we are to complete action on the bill, it looks at this point that it would be about 9 o'clock. What is the wish of Senators?

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

Mr. ROBERT C. BYRD. I yield.

Mr. SYMINGTON. I did not know we were going to try to complete this bill. There was a notice that the acting majority leader sent out. I have no criticism of that, but we came in at 12 o'clock today. Some of us have made plans. Since there are six or seven or eight amendments, I would hope we would not try to complete action tonight, but go over until tomorrow. Based on what I have heard, it might be 10 o'clock before we completed action.

Mr. ROBERT C. BYRD. Mr. President, may I hear what the manager of the bill and the ranking minority member have to say?

Mr. SPARKMAN. Mr. President, I would like to say this to the acting majority leader. It was announced yesterday that it would be the purpose to complete action on the bill today. Accordingly, I made plans for tomorrow.

Let me say that during the time I have been in Congress I have never asked that a bill be postponed or held up because of my wishes, and I do not ask it in this instance, but I believe if we could get hold of this matter and move it along, we could complete action by 9 o'clock. I do not think there is any question about it.

Mr. TOWER. Mr. President, if the Senator will yield, I would certainly like to see us finish this measure this evening, because a number of Senators have made plans on the prospect of finishing it to-

night. Besides, I do not think all the time allowed is going to be used. I think a point of order will be made against one or more amendments, which will cut the time down.

Mr. ROBERT C. BYRD. Mr. President, may I ask the distinguished Senator from Wisconsin if he would be willing to reduce the time on his amendment to 1 hour on his side and one-half hour on the opposing side?

Mr. PROXMIRE. Mr. President, I would like to accommodate the Senator. I think the Senator from Texas makes a good point in that we may have a point of order. I can say that if there is a point of order made against the McIntyre amendment, an appeal will be made and there will be debate on that. I think we are going to be here at least until 9 o'clock, if not later.

Mr. SPARKMAN. Mr. President, I would be glad to cut our time down to 30 minutes, and I think we can dispose of it in less time than that.

Mr. SYMINGTON. Mr. President, will the distinguished acting majority leader yield?

Mr. ROBERT C. BYRD. I yield.

Mr. SYMINGTON. I read the RECORD this morning, which was the first I heard about this arrangement. I do not remember ever holding up the Senate, either. I was wondering, if we are going to stay in session late tonight, why we did not come in a little earlier than noon. Was there some problem about coming in earlier?

Mr. ROBERT C. BYRD. Yes. I discussed this with the distinguished manager of the bill yesterday, and I got the impression from him that, inasmuch as there were some committee hearings, or at least one he wanted to attend, he would prefer that we come in at noon today.

Mr. SYMINGTON. Is there any motion or agreement that we cannot vote while we are having committee hearings?

Mr. ROBERT C. BYRD. No, but he is the manager of the bill, and out of deference to the manager of the bill I did not ask that the Senate come in earlier.

Mr. SPARKMAN. May I say I did not limit it to my own consideration and my committee. I said it seemed to me so many committees would be holding hearings this morning that it would be difficult to come in before 12.

Mr. ROBERT C. BYRD. Mr. President, it would be my suggestion, with all due respect to my friend from Missouri—and I think I can appreciate his situation; I think he makes a very good point in justification of his viewpoint—but in deference to the manager of the bill, who has the burden of managing this bill, and the ranking minority member, I believe we ought to proceed and try to finish this bill, hoping Senators will not utilize all of their time. I will make every effort, as we go along, with the cooperation of the manager of the bill and the ranking minority member, and other Senators, to reduce time on all amendments so as to complete action on the bill today.

Mr. SPARKMAN. I think the acting majority leader can count on our cooperating with him fully.

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

The PRESIDING OFFICER. Who yields time?

Mr. TAFT. Mr. President, I yield myself such time as I may need.

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

Mr. TAFT. I yield.

Mr. ROBERT C. BYRD. I ask unanimous consent that time on any rollcall vote during the remainder of today be limited to 10 minutes, with warning bells to sound midway.

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

Mr. SYMINGTON. Mr. President, am I to understand now that the regulation is that we are going to have to finish the bill tonight? Is that what we are going to have to do?

The PRESIDING OFFICER. The Chair will say there is no order to that effect.

Mr. ROBERT C. BYRD. That is not the statement I made. The suggestion I made was that we proceed, in the effort to see if we can do that.

Mr. SYMINGTON. As I understand it, then, because of the fact that my distinguished colleague did not want to have the session start before 12 o'clock today and because he wants to finish the bill tonight, we did not start until 12 o'clock and now we are going to stay until the bill is finished, regardless of the hour. Is that correct?

Mr. ROBERT C. BYRD. No, I did not make such a statement. I sugested we move ahead in an effort to complete action on the bill, hoping we will.

Mr. SYMINGTON. Could I ask, for those of us who may have made previous plans, is there a time limit, so we could tell how late we will be? Supposing it runs until 11 o'clock. Will it run until 11 o'clock?

Mr. ROBERT C. BYRD. I hope not.

Mr. SYMINGTON. Can we have a definite time on how long we will stay?

Mr. ROBERT C. BYRD. I hope the Senator will not press me. I am trying to do the best I can, with the cooperation of Senators.

I ask unanimous consent, in accordance with the Senator's suggestion, that the final vote on passage of the bill occur no later than 9 o'clock tonight.

Mr. KENNEDY. Mr. President, reserving the right to object, what kind of assurance is there that those of us who have amendments will get consideration of those amendments?

Mr. ROBERT C. BYRD. There would be no assurance of time for debate. I was trying to accommodate myself to the suggestion of the Senator from Missouri.

Mr. KENNEDY. Mr. President, I think the suggestion of the Senator from Missouri is quite correct. I am pepared at any time to debate my proposal. However, before we get into this kind of a cutoff, I have a matter which will take time to explain.

I think the Senator from Missouri has made an excellent sugestion.

Mr. ROBERT C. BYRD. Mr. President, I withdraw my request.

Mr. SPARKMAN. Mr. President, is it not true, as a matter of fact, that on yesterday we were begging different Senators to offer their amendments?

Mr. ROBERT C. BYRD. Mr. President, the Senator is correct. On yesterday afternoon, we asked Senators to come forward and offer their amendments. I went personally to several Senators and asked them if they would present their proposals yesterday, but they wanted to wait until today.

It is perfectly all right with me if we adjourn and go over until tomorrow. However, many Senators have expressed the hope that we can finish the bill today. The Senator in charge of the bill on this side and the Senator in charge of the bill on the minority side have expressed their desire that the bill be finished today. I would like to accommodate myself to their desires. They have the burden of managing the bill.

Mr. PROXMIRE. Mr. President, there are 30 amendments. If we take 10 minutes to an amendment, that would be 5 hours. Tomorrow is Wednesday, in the middle of the week. I cannot understand why we cannot come in tomorrow.

ORDER FOR ADJOURNMENT TO 10 A.M.

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

Mr. SCOTT of Pennsylvania. Mr. President, reserving the right to object, and I will not object, but I make this statement merely for the purpose of calling to the attention of the acting majority leader that we have an agreement on this side that votes will not occur prior to noon without advance notice to the minority. We do want to be notified in advance, so that votes will not be had before noon.

Mr. ROBERT C. BYRD. Mr. President, I say in response to the distinguished minority leader that if we come in at 10 o'clock tomorrow morning, I would hope that we could get an agreement that certain amendments can be offered and debated and that we can have some votes tomorrow before noon.

Mr. SCOTT of Pennsylvania. Mr. President, I want the distinguished acting majority leader to know that I am prepared to come in tomorrow. I would hope that we could stay and finish the bill so that all Senators do not have to spend their time here. However, if we must, we will accommodate ourselves to whatever plane trips are planned tonight.

Mr. President, I point out that the distinguished acting majority leader knocked himself out yesterday in an effort to get Senators to come in with amendments today. We had a drought of amendments on yesterday, and we have a plethora of amendments today. And goodness knows what will happen. Perhaps we can agree on 20 minutes to each amendment. As happened once today, after a vote on an amendment, they agreed to withdraw the yeas and nays on the next amendment. However, if we do not finish, we will have to come in tomorrow. And if we do, we should know what the business will be and, if we can secure an agreement, what time the Senate will be voting.

Mr. ROBERT C. BYRD. Mr. President

it came as somewhat of a surprise to me on yesterday to find that word had somehow gotten around that there would not be votes on yesterday and that certain amendments would not be called up yesterday. I do not know who put that word out. I had indicated in the whip notice last Thursday that votes would be had on amendments Monday in the hope we would be able to finish the bill on Tuesday, today.

Somehow or other the word got around that we would have no votes on amendments yesterday, and 14 Senators on this side of the aisle were absent. I assume that they were so informed also. However, that word was not sent out by the leadership. We made every possible effort to get amendments called up on yesterday. We had only three amendments called up. Everyone wanted to hold back until today.

Mr. President, was the unanimous-consent request agreed to?

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.

Mr. KENNEDY. Mr. President, was there an objection to the last unanimous-consent request?

Mr. ROBERT C. BYRD. Mr. President, I withdrew the request the Senator has in mind. The last unanimous-consent request was that when the Senate completes its business today, it stand in adjournment until 10 o'clock tomorrow morning.

The PRESIDING OFFICER. That request has been agreed to.

ORDER FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW AND FOR THE UNFINISHED BUSINESS TO BE LAID BEFORE THE SENATE

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, following the recognition of Senators under any orders that may have been previously entered, there be a period for the transaction of routine morning business of not to exceed 15 minutes with statements limited therein to 3 minutes, at the conclusion of which the Chair lay before the Senate the unfinished business.

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

Mr. HUMPHREY. Mr. President, are we changing the ground rules and going over until tomorrow?

Mr. ROBERT C. BYRD. Not that I know of.

Mr. HUMPHREY. Mr. President, I thought I understood that. Some of us have arrangements that we have made for tomorrow.

Mr. ROBERT C. BYRD. Mr. President, I would hope that we could finish tonight. I entered an order for 10 o'clock tomorrow in the event that we do not finish. If we do finish tonight, I would vacate the order to come in at 10 o'clock tomorrow.

Mr. HUMPHREY. Mr. President, I thank the Senator.

Mr. SPARKMAN. Mr. President, will permission be given to committees to sit in the morning?

Mr. TAFT. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Ohio has the floor.

Mr. TAFT. Mr. President, I would be glad to yield to the Senator from Alabama for a question to the acting majority leader. However, I do not yield the floor.

Mr. SPARKMAN. Mr. President, I thank the Senator from Ohio.

Mr. President, I ask the leadership if committees will be permitted to sit on tomorrow. The Committee on Banking, Housing and Urban Affairs has a very important meeting tomorrow before the subcommittee of the Senator from New Hampshire (Mr. McINTYRE). I will point out to the Senate that we have hearings or executive sessions scheduled for every day. We need to meet at 10 o'clock every day.

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.

UNANIMOUS-CONSENT REQUEST

Mr. ROBERT C. BYRD. Mr. President, may I make one last effort?

I ask unanimous consent that the time on any amendment, other than the amendment to be offered by the distinguished Senator from Wisconsin, be limited to 20 minutes, to be equally divided as heretofore agreed to.

Mr. TAFT. Mr. President, I would object.

Mr. MOSS. Mr. President, reserving the right to object, I have an amendment to offer on which I would need more time.

The PRESIDING OFFICER. Objection is heard.

The Senator from Ohio is recognized.

Mr. TAFT. Mr. President, the amendment which I have introduced is for all practical purposes identical to amendment No. 46, which is a printed amendment.

Certain prior amendments have been advanced on which questions have been made and a point of order raised. Such questions may well be raised again.

Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order. Those who have conversations will please go to the cloakrooms.

Mr. TAFT. Mr. President, questions have been raised under the consent agreement as to the propriety of certain prior amendments. They may well be raised with respect to this amendment, but I think not properly so. Certain amendments have been made to amendment No. 46 in an attempt to clarify this situation.

This amendment attempts to amend section 5 of the bill, which appears on page 3 of the bill. Section 5 would change the Economic Stabilization Act by adding at the end thereof a new subsection which would state:

> 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.

My amendment to this section of the bill would simply go on to provide that this section would not apply if the expenditures for the fiscal year ending June 30, 1974, under the budget would otherwise exceed $268.7 billion. It then provides a mechanism by which the President may make reservations and come to Congress, under provisions like those in the Reorganization Act.

It seems to me that the limitations in the consent agreement do not apply to this and that it is certainly a proper amendment and within the general subject of this portion of the bill.

I shall argue this further on this matter, if a point of order is made as to this amendment or as to amendments to this particular amendment.

It seems to me it is hard to see how there could be 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 III 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.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PROXMIRE. Mr. President, I have an amendment——

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. How much time have I used on this amendment?

The PRESIDING OFFICER. The Senator has used 15 minutes.

Mr. TAFT. I would inquire of the Chair further, since I have read only approximately three pages of print here, was the time taken out for the debate on the questions that were raised by unanimous consent?

The PRESIDING OFFICER. The Senator yielded time. Yes, the time was taken.

Mr. SPARKMAN. Mr. President, may I ask the Senator from Ohio how much time he requires?

Mr. TAFT. I would like 5 additional minutes.

Mr. SPARKMAN. Mr. President, I yield the Senator 5 additional minutes out of my time.

Mr. TAFT. I thank the Senator. 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 that session of 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 the 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 manner which would leave no doubts that any fund reservations on the basis that the 93d Congress is spend-crazy is 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.

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

Mr. TAFT. I yield to the Senator from Oklahoma.

Mr. BELLMON. Does the Senator yield

for the submission of a perfecting amendment?

Mr. TAFT. I yield to the Senator for that purpose.

The PRESIDING OFFICER. A perfecting amendment would not be in order until all time has been used or yielded back.

Mr. TAFT. Mr. President, I yield back my time on the amendment.

The PRESIDING OFFICER. The Senator from Alabama has the time.

Several Senators addressed the Chair.

Mr. SPARKMAN. Mr. President, may I ask this question? If the Senator from Oklahoma offers a perfecting amendment, what happens with respect to time on that amendment?

The PRESIDING OFFICER. There would be 20 minutes on the perfecting amendment, 10 minutes on each side.

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. As I understand, a perfecting amendment would not be in order until all the time of the proponent of the amendment has expired. It has expired; I was talking on time on the bill.

The PRESIDING OFFICER. No, all time on the amendment, not just the proponent's time on the amendment.

Mr. TAFT. If that is the case, I would be willing to yield to the Senator for a comment, or to withdraw the amendment if he desires.

Mr. BELLMON. I do it, Mr. President, for the purpose of offering a perfecting amendment.

Mr. EAGLETON. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. EAGLETON. I, too, wish to offer a perfecting amendment. All time on both sides, as I understand, has to be used or yielded back.

The PRESIDING OFFICER. The Senator is correct.

Mr. EAGLETON. Has all time been yielded back with respect to the opponents of the Taft amendment?

The PRESIDING OFFICER. The opponents of the amendment still have 2 minutes remaining.

Mr. SPARKMAN. Mr. President, I yield to the Senator from Texas.

Mr. TOWER. Mr. President, I dislike doing this very much, because I certainly agree with the idea of setting an expenditure limit of $268.7 billion. I am very much in agreement with that objective, but I think it should be considered as separate legislation.

I, therefore, reluctantly, Mr. President, must raise a point of order. The amendment offered by the Senator from Ohio is not germane, and is, therefore, out of order.

Mr. TAFT. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. TAFT. Is it in order to raise a point of order at this point?

The PRESIDING OFFICER. It is. A point of order may be raised after the proponents' time is expired, and the proponents' time has expired.

Mr. TAFT. Mr. President, I would like to be heard on the point of order.

The PRESIDING OFFICER. The Chair will hear from the Senator from Ohio provided someone will yield time to the Senator for that purpose.

Mr. SPARKMAN. How much time does the Senator want?

Mr. TAFT. I would like about 3 minutes.

Mr. SPARKMAN. Mr. President, I yield the Senator from Ohio 3 minutes on the bill.

Mr. TAFT. Mr. President, the issue involved here is clearly whether or not this particular amendment is germane to the bill as it is before us, as set out in the unanimous-consent agreement.

There has been a prior ruling on a couple of amendments, to the effect that various amendments were not germane. I think I pointed out in my opening argument that I felt very clearly that this particular amendment, which modifies the language on page 3, line 25, by putting a modification upon the effect of that language in the event of a spending ceiling being exceeded, and then goes on to explain that, if that debt ceiling is exceeded, certain procedures may be taken by the President, nevertheless, to spend beyond that spending ceiling.

Mr. President, I wonder if the Parliamentarian would give me his attention on this matter. I am arguing a point of order.

It seems to me that nothing could be clearer as a modification of this particular language in section 5, than putting on a spending ceiling which places a condition on the effect of the section.

The McGovern anti-impoundment amendment was held to be in order at an earlier time, and I pointed out at the time that this ruling was perfectly appropriate.

Is the Parliamentarian aware of the section I am referring to? Has he the amendment before him?

The PRESIDING OFFICER. The Chair is aware.

Mr. TAFT. Mr. President, the McGovern amendment went even further by way of substance than my amendment, in that it put a complete limitation on impoundments. This goes far beyond the impoundment limitation section that is currently in the bill. Yet the specific subjective matter was impoundment, which is exactly the same as the subject of my amendment except that my language applies specifically and modifies specifically the language that is in the bill at the top of page 4.

The PRESIDING OFFICER. The Chair rules that the amendment is not germane, because besides dealing with impoundment, it deals with another subject matter, which is a budget limitation, and is not included in the committee bill.

The bill is open to amendment.

Mr. McINTYRE. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to state the amendment.

Mr. McINTYRE. I ask unanimous consent that the amendment not be read, but that it be printed in full in the RECORD.

The PRESIDING OFFICER. The amendment will be printed in full in the RECORD.

The amendment is as follows:

At the end of the bill, add the following new section:

CONTROL OF INTEREST RATES

SEC. 9. The Economic Stabilization Act of 1970 is amended by inserting after section 203 the following new section:

"§ 203A. CONTROL OF INTEREST RATES

"(a) Immediately upon the enactment of this section, the President shall issue an order stabilizing interest rates at levels not greater than the highest levels pertaining to various types of categories of credit transactions charged by each business enterprise primarily engaged in lending during the thirty-day period ending March 16, 1973. If a business enterprise had no applicable credit transactions during such thirty-day period, the level established under this section shall be the highest applicable level in the next preceding thirty-day period in which such transactions did occur.

"(b) Orders and regulations issued by the President under this title may provide for such adjustments in the interest-rate levels established pursuant to subsection (a) as may be necessary to prevent gross inequities and to promote desirable levels of economic growth, but any such order or regulation shall provide for such adjustments only after public hearings conducted in the manner prescribed in section 207(c)."

Mr. McINTYRE. Mr. President, I yield myself 8 minutes of the 10 that I understand I have.

Mr. President, the amendment that I am now offering in simple terms puts interest rates under mandatory price controls. This amendment provides a new section to the Economic Stabilization Act instructing the President upon enactment to issue an order requiring that interest rate levels be no greater than the highest levels charged by business enterprises primarily engaged in lending during the 30-day period ending March 16, 1973.

If a business enterprise happened to have no credit transactions during that period, the levels would be established at the highest applicable interest rate in the next preceding 30-day period after the transaction, or otherwise the 30-day period ending February 16, 1973, and so forth.

The amendment also provides that adjustments in interest rate levels may be made to prevent gross inequities and to promote desirable levels of economic growth but that public hearings would be required before any such increases in interest rates could be granted.

I repeat, in simple terms, this amendment puts interest rates under mandatory price controls.

Do we need any further proof that action is needed than the record of three increases in the prime rate in just the last 3 months?

In late December, some banks raised their prime rate to 6 percent.

On January 4, those which had not gone to that level in December made the move to 6 percent.

On February 26, all went to 6¼ percent. And yesterday, Mr. President, some

eight major banks raised their prime lending rate to 6¾ percent.

Now I see in this a disturbing pattern all too familiar to those of us who fought the battle of the skyrocketing prime rate back in 1969 and 1970.

Then, as now, the Nation relied on self-restraint by the banking industry.

We saw what happened then, Mr. President. Prime rates which finally soared to 8½ percent, the highest in modern history.

And then, as now, Mr. President, the banking industry assured us that increasing the prime rate for its best corporate customers would not affect home mortgage rates, consumer loans or the rates charged small business borrowers.

Let me recall for you what the distinguished senior Senator from Alabama and the chairman of the Committee on Banking, Housing and Urban Affairs said on June 16, 1969:

> There is simply no way of carrying this out for a particular class and not having it adversely affect housing, small business, consumers, generally—the ordinary people who have to depend on credit to carry them on. There are lots of them in this country, including the farmers, those who want to buy houses, small businesses, consumers, generally. They are bound to be adversely affected.

And then, Mr. President, my colleague from Alabama went on to say that he feared that wage and price controls would have to be imposed if the rise in interest rates were allowed to continue.

The prescience of this observation by the distinguished chairman of the Banking, Housing and Urban Affairs Committee was borne out in short order, Mr. President.

Not long after the prime rate hit that historic high of 8½ percent, the effective rate paid by small businessmen, consumers, farmers, and personal borrowers went to well over 10 percent in most cases, after computing the impact of compensating balances.

At that point, Mr. President, and with no signs of forthcoming cooperation by the banks which establish prime interest rate levels, Senators Dodd, RANDOLPH, and I introduced a bill to provide for the regulation of the maximum interest rates which may be charged by federally supervised banks.

When we introduced that legislation, Mr. President, I said, and I quote:

> Our officials concerned with the economic health of the Nation are powerless to act directly to curb this rate increase. The Secretary of the Treasury was not even consulted by the banks before they increased their rates.
>
> The bill being introduced would give the Federal government the authority to regulate interest rates. Thus our financial officials would be able, if they thought it necessary, to reduce the rates being charged to American consumers and businessmen.

Unfortunately, our bill did not pass at that time, Mr. President.

I emphasize that word "unfortunately" because I was as convinced then as I am convinced today that there are very few factors as closely related to the trend of inflation in our economy as the interest rates charged by commercial banks. And yet, in an age when the people of this Nation look to their Federal Government to put a stop to runaway inflation there is no other item so little under Federal guidance as commercial interest rates.

A little more than a year after we unsuccessfully introduced our bill to regulate maximum interest rates, Mr. Nixon imposed the wage and price controls Senator SPARKMAN foresaw.

And now, today, with most controls lifted in phase III, history is repeating itself, starting once more with a series of interest rate increases.

Accordingly, Mr. President, I have offered the amendment to roll back interest rates to the March 16 level, because I believe legislation is the quickest, most effective response that Congress can make to a situation this serious.

Let me now sum up the case for adoption of this amendment:

First. The rates which banks pay to their depositors are regulated by the Federal Government, but the price which borrowers pay is left to the discretion of the banks themselves.

Second. Yet few factors are so closely tied to inflationary trends as rising interest rates charged by commercial banks.

Third. Disclaimers to the contrary, history as recently as 1969 tells us that increases in the prime lending rate ignite increases in the interest rates on home mortgages, small business loans, consumer loans, and farm loans.

Fourth. Reluctance to legislate interest rate controls in 1969 was followed a year later by the imposition of wage and price controls to stem a runaway inflation.

Fifth. With most controls now removed, the 1969 pattern is repeating itself. We have seen three increases in the prime interest rate in the last 3 months.

Sixth. In the absence of voluntary restraint, legislation to roll back the most recent interest hikes is clearly in order.

The issue today is whether the Congress will take the step necessary to assure the American people that we are serious about holding down inflation or whether we are only willing to pay lipservice to this clear need.

I yield back the balance of my time.

Mr. BENNETT. Mr. President, of all the amendments offered to the bill, this is the most damaging. It could create havoc, not only in the United States but in the world outside.

I know that the Senator has as his objective control of the prime rate, but that is not what the bill says. The bill says it is limited to business enterprises primarily engaged in lending, but it refers to the highest levels pertaining to various types of categories of credit transactions; so he is putting a freeze not only on the prime rate, but on the mortgage rate, on the consumer rate, on every rate that can be categorized.

What would happen if this went into effect, assuming the continued existence of inflationary pressure? The banks would soon find that they had no customers. The first thing that would happen would be that the market would be flooded with commercial paper, which is the first refuge of a borrower who finds himself caught in a credit situation and that is not covered by this bill.

There is no limit on the amount of interest that can be charged for commercial paper, so the banks would just go out of the business of lending to big business. Big business would get its money at the rate and would have to pay for it. They would go the commercial paper route. A freeze of an interest rate in the United States, where rates are already lower than they are abroad, would mean that that much money available which might be for deposit and then relending in the United States would flow abroad. Our balance-of-payments situation is in terrible state now. It would be impossible if this limitation were put on it. The banks could not protect themselves.

Obviously, if the banks are not able to lend at the actual practical rate, and there are other people who will, then we will have a black market in interest. If this amendment were to go into effect, the bank might be limited to a particular rate. It could loan its money to a friend. Then that friend or black marketer could take the money to any level he pleased. Money and credit are so volatile that they will find their level regardless of what we try to do to dam them.

All this would do would be to take the American banking system out of the business of loaning money because, as I say, the people who need the money and the people who have the money to lend will both go where the practical interest rate is and not where there is a controlled interest rate.

By putting in this amendment, the Senator has avoided the most terrible situation of all, which would have been true with his original amendment. The Federal Government could not borrow money or go into the open market and pay a higher rate than it had paid the last time around. This would have made it impossible for the Federal Government to continue to manage its debt. He took care of that.

Let me repeat, by the language in the amendment he would freeze every level of interest rate applied to the various types of transactions by lending institutions and then, if the demand for money were strong enough, as I think it will be if we are going to continue to grow, all the lending businesses would move out of the banks and it would be accomplished by commercial paper. It would be accomplished in one way or another by a black market and we would have not only chaos but we would also have continued inflation, and we would also have a serious increase in our balance-of-payments deficit, as people took their money abroad where they could get higher interest on it, because of the issue of the freezing rate in which money is loaned, in effect freezing also the rates that can be paid for that money by those who try to gather it to lend it. This would apply also to savings and loan institutions and credit unions and to everyone else who is in a business enterprise engaged in lending.

I therefore believe that this is a very, very serious proposal, and I would hope that its author would withdraw it.

Mr. McINTYRE. Mr. President, how much time remains to me?

Mr. SPARKMAN. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. I am happy to yield to the Senator from Alabama.

Mr. SPARKMAN. As eager as we all are to maintain fair interest rates and I mean by that, not rising interest rates, which should be avoided, of course, must we not recognize that this amendment flies in the face of the agreement worked out in the international monetary market just yesterday or the day before seeking to strengthen the dollar?

Mr. BENNETT. It could very well do. I do not know all the details of that agreement, but certainly our friends abroad would not be interested in supporting the dollar if, over here, we have completely frozen off credit markets.

There is one other point I should like to make, and I am glad the Senator from Alabama, the manager of the bill, interrupted me, because my mind turned over a cog, this will freeze interest rates at different levels in different institutions, which means that the man who charged the most in March will have the privilege of charging the most from here on out, and the man who is trying to keep the interest rates down will now find himself at a disadvantage, which is always the case whenever we freeze things.

Mr. JAVITS. Mr. President, will the Senator from Utah yield for a question?

Mr. BENNETT. I am happy to yield to the Senator from New York.

Mr. JAVITS. Would the Senator tell us how this will affect the operations of the Federal Reserve Board in terms especially of its open market operations?

Mr. BENNETT. Well, since, apparently, it is the intention of the author not to interfere with the open money market, its effect might be minimal but it will make it impossible for the Federal Reserve Board to have any flexibility with respect to some lending rates in comparison with the primary rates that the banks might charge.

Mr. JAVITS. Would the Senator agree with me that there is a material difference here, which is one of quality. That is, where we are controlling an item of sale and the seller may have very real reasons to keep a work force going and keep a brand name current, while he has to sell his merchandise he would do his utmost to fly with a price limitation; but when we are dealing with money we are dealing with a subtle situation, not just in the local market but in the world market, which can be withheld without any great cost to the withholder, but is terribly disruptive to hear. One of the reasons we are so sensitive about putting controls at the production level on food—although I am for them—is that I realize the supply could dry up. This would be even more true with regard to money, and I would be worried by this kind of inflexible rollback.

Mr. BENNETT. It is very inflexible particularly to the financial institutions which are the backbone of our internal monetary system.

Mr. SPARKMAN. Mr. President, will the Senator from Utah yield?

Mr. BENNETT. I am happy to yield to the Senator from Alabama.

Mr. SPARKMAN. I believe that the Senator from New York has brought up a very important point. I do not think that the Federal Reserve Board would be able to operate its open market transactions if this becomes law.

Mr. McINTYRE. Mr. President, how much time do I have remaining, please?

The PRESIDING OFFICER (Mr. CLARK). The Senator from New Hampshire has 10 minutes remaining.

Mr. McINTYRE. I thank the Chair. I yield 2 minutes to the Senator from Wisconsin (Mr. PROXMIRE).

Mr. PROXMIRE. Mr. President, I support the McIntyre amendment and do so with full knowledge of the problems described by the Senators from New York and Utah. However, I do not believe that they have carefully read the last paragraph of the Senator's amendment, or at least interpreted it the way I do. It is short and it states:

(b) Orders and regulations issued by the President under this title may provide for such adjustments in the interest-rate levels established pursuant to subsection (a) as may be necessary to prevent gross inequities and to promote desirable levels of economic growth, but any such order or regulation shall provide for such adjustments only after public hearings conducted in the manner prescribed in section 207(c).

Mr. President, there has been a lot of mystery about interest rates. People say we cannot freeze them and that they have been exempted from mandatory controls in phase II. Nonsense. There is no reason why we cannot treat interest rates like any other price, especially as under the McIntyre amendment it provides for an escape clause. It is flexible. It would be proper for the President, after hearings, to provide a flexible range situation that can vary, and also have a rise if it is necessary for the balance-of-payment situation, or to promote economic growth. But what the Senator from New Hampshire is saying is that we should have a public hearing on the increases, and know why. It should be explained to us.

I do not see that this is such a radical or destructive proposal. It will not destroy the banks. What they have to do is to make a case before they can have any kind of sharp increase which would punish the homebuyer, the farmer, and so many others in our society.

Mr. McINTYRE. Mr. President, I want to point out to my distinguished friend, the Senator from Utah (Mr. BENNETT), when he talks about a freeze, that this is not a freeze. That has just been amplified by the Senator from Wisconsin. This is a mandatory control with an escape clause in public hearings. If the requested increase is justifiable, based on the record, then an increase could be granted.

Let me remind my good friends here that on Thursday, which is the day after tomorrow, the bankers have been summoned to Washington to meet with Arthur Burns of the Federal Reserve Board, and I think Manufacturers Trust, which is the fourth largest bank and the one which started this latest increase in prime interest rates, will be there.

Why, in view of the seriousness of inflation; in view of the fact that it is eating up our dollars and hurting people who are on fixed incomes, should the Chairman of the Federal Reserve Board have to be hat in hand? Why should not we in Congress consider what he really needs—a big stick to bring these people into line?

Every record shows that since December, January, February, and March they have raised the prime rate from somewhere in the vicinity of 5¾ to 6¾ percent, with a corresponding rippling effect.

I can think of nothing more than credit that is so inflationary and hits everybody's pocketbook.

I think it is very important that we get on record. If we are serious about stopping inflation in Congress and we are going to give it more than lip service, that is what we must do here today. I say Congress should take the steps necessary to assure the American people that we are serious about holding down inflation and are not willing to continue to pay lip service to this clear need before us.

Mr. BENNETT. Mr. President, I do not think the Senator from New Hampshire realizes the extent of the burden that the public hearing proposal would put on the country. I do not know how many banks there are—44,000; probably the same number of savings and loan associations.

He talks about each enterprise. He is not talking about the business enterprise that charges the highest rate. So, as I read this, before any lending institution could change any established rate, it would have to go through a public hearing process.

I am glad the Senator from New Hampshire mentioned Arthur Burns, the Chairman of the Federal Reserve Board, because what I have in my hand as the basis of the ad lib remarks I was making is a memorandum that I received this afternoon from Arthur Burns, and I will read it:

The amendment to the Economic Stabilization Act proposed by Senator McIntyre in present circumstances could have the most serious consequences for the American economy. First a freeze on interest rates would probably lead to a massive outflow of dollars to foreign money markets where higher interest rates could be obtained.

And our big problem abroad is that too many dollars are there now.

Second, financial institutions would reduce drastically their volume of lending. All businesses would suffer, and so too would home buyers and consumers needing credit.

Third, a black market for credit would inevitably develop, and the interest rates that would need to be paid in that market would vastly exceed to highest rates experienced during the past decade.

There is another paragraph, which reads:

The above comments are based on the assumption that Senator McIntyre's amendment would not apply to open market rates of interest. If that assumption is invalid, then the Federal Reserve would lose all control over the money supply and bank credit. The consequence could only be uncontrolled inflation.

Mr. President, I think I have made my point; and if the sponsor of the amendment is ready to yield back the remainder

of his time, I will be glad to yield back mine.

Mr. McINTYRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 6 minutes remaining.

Mr. McINTYRE. Let me sum up, Mr. President, and I will be happy to yield back the remainder of my time.

The rates on savings accounts which banks pay to their depositors are regulated by the Federal Government, but the price which borrowers pay is left to the discretion of the banks themselves. Yet, few factors are so closely tied to inflationary trends as the interest rates charged by commercial banks. They can disclaim all they want to the contrary, and the Senator from Utah can claim the London Bridge is falling down. Nevertheless, history, as recently as 1969, tells us that increases in the prime lending rate ignite increases in the interest rates on home mortgages, small business loans, and consumer loans.

I say it is time for Congress to stand up and put controls on prime interest rates.

I yield back the remainder of my time, and I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. SPARKMAN. Mr. President, I yield to the Senator from Texas.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. SPARKMAN. I yield 3 minutes to the Senator.

Mr. TOWER. Mr. President, the amendment offered by the Senator from New Hampshire is not germane and therefore is out of order.

Mr. McINTYRE. Mr. President, do I have time remaining in which I may debate the issue of germaneness?

The PRESIDING OFFICER. Is the Senator from Texas making a point of order?

Mr. TOWER. I do raise the point of order.

The PRESIDING OFFICER. The Senator from New Hampshire has yielded back his time. Does the Senator from New Hampshire desire time to debate the point of order?

Mr. McINTYRE. First, I have to have a ruling from the Chair.

The PRESIDING OFFICER (Mr. CLARK). The Chair rules the amendment is not germane, there being nothing in the bill with respect to control of interest rates.

Mr. McINTYRE. I appeal the ruling of the Chair and ask for time to debate the issue.

The PRESIDING OFFICER. Ten minutes are allotted to each side on the appeal.

Mr. McINTYRE. Mr. President, I cannot think of a more shallow effort on behalf of the committee on which I serve than this repeated reliance on what is a sham, and that is the rule of so-called germaneness.

What we are doing here today, which the distinguished Senator from Texas well knows, is reenacting the Economic Stabilization Act of 1970, as amended.

All one need do to find out how important interest rates are in this question—as to whether this is germane at this time—is to refer back to that bill, Public Law 92–210, and one will find that by definite implication, by the passage of this bill today, we are enacting and revivifying and putting new life into it effective May 1 of this year. It is pretty hard for me, as a Member of this great body, as a Senator from New Hampshire who is very concerned not only with the banking industry of America but also with the people who are being eaten alive by inflation, to believe that a technical rule would be brought to bear against an amendment with as much merit as the one I am offering here.

Section 202 of the law we are reenacting and putting into effect for another year reads:

> It is hereby determined that in order to stabilize the economy, reduce inflation, minimize unemployment, improve the Nation's competitive position in world trade, and protect the purchasing power of the dollar, it is necessary to stabilize prices, rents, wages, salaries, dividends, and interest.

Section 203 reads:

> (a) The President is authorized to issue such orders and regulations as he deems appropriate, accompanied by a statement of reasons for such orders and regulations, to—

Subsection (2) of that section reads:

> Stabilize interest rates and corporate dividends and similar transfers at levels consistent with orderly economic growth.

Is the distinguished Senator from Texas afraid that we might carry this, that the prime interest rates might find theselves tied down to what they should be tied down to? Their record is not so glorious that we have to consider them sacrosanct.

So I think that whether or not a particular bill which we have here fails to mention the word "interest" is a sham, because this is a bill which continues the real crux of the matter, which is the Economic Stabilization Act of 1970, as amended, which refers all over to stabilizing interest and controlling interest.

So, Mr. President, I would hope that in good conscience and justice that the technicalities offered by the committee leader on this bill would be overridden and that the ruling of the Chair would be overruled so that we may vote on the merits up and down on the question of mandatory controls on interest. I ask for the yeas and nays.

Mr. TOWER. Mr. President, if the Senator will withhold his request for the yeas and nays for one moment, I will withdraw the point of order that I raised, and we will subsequently move to table the amendment of the Senator from New Hampshire.

Mr. McINTYRE. Up and down?

The PRESIDING OFFICER. The Chair has already ruled on the point of order, and it would take unanimous consent to withdraw the point of order.

Mr. TAFT. Mr. President, will the Senator from New Hampshire yield?

Mr. McINTYRE. First, I wish to propound a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McINTYRE. Does the Senator from Texas have the right to withdraw his point of order?

The PRESIDING OFFICER. He may do so with unanimous consent.

Mr. TOWER. Mr. President, I ask unanimous consent that I may withdraw the point of order.

Mr. McINTYRE. I object.

The PRESIDING OFFICER. Objection is heard.

Mr. TOWER. I withdraw my unanimous-consent request.

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

Mr. McINTYRE. I yield to the Senator from Ohio.

Mr. TAFT. I thank the Senator for yielding.

Mr. President, I wish to take just one-half moment to say that while I do not agree with the substance of the Senator's amendment, his point on the point of order is extremely well taken. If the rule on germaneness under the agreement is such as demonstrated today in rulings by the Chair, the Senate had better do something about correcting it. Otherwise it is going to do nothing but frustrate this body in processing legislation. I cannot think of anything that would hold up the obtaining of unanimous-consent agreements more, particularly with respect to germaneness. The germaneness rule should be sensible and one that is broadly construed and not narrowly construed.

Mr. McINTYRE. I thank the Senator. This is a technical sham. That is why I think we should now turn it down.

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

Mr. McINTYRE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. McINTYRE. I yield 2 minutes to the Senator from Wisconsin.

Mr. PROXMIRE. I support the position of the Senator from Ohio and the Senator from New Hampshire. What they say is correct. There is no question but that the Price and Wage Stabilization Act not only mentions the interest rates but specifies them. The Senator is trying to provide for an amendment that affects interest rates.

The construction, as the Senator from Ohio pointed out, has been so narrow and limited that I would be disinclined to agree to any unanimous-consent agreement from now on if we are going to have this narrow construction in the future. Even though the Senator might have an important provision, he would be barred from providing amendments if the language is not mentioned in the bill itself. This language makes it impossible for me to agree to unanimous-consent agreements in the future. I hope that in this test vote, we will have now on the McIntyre amendment, whether Senators agree with it or not, we overturn the point of order so that we may vote on the merits.

Mr. McINTYRE. Mr. President, the yeas and nays are requested on the ruling of the Chair.

The yeas and nays were ordered.

Mr. ROBERT C. BYRD. Mr. President, will the Chair state the question?

The PRESIDING OFFICER. The time has not been used or yielded back.

Mr. TOWER. Mr. President, how much time is remaining to the Senator from New Hampshire?

The PRESIDING OFFICER. One minute. The other side has 10 minutes.

Mr. McINTYRE. I yield one-half minute to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I ask unanimous consent that Stan Jones, a member of the staff, may be permitted on the floor.

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

Does the Senator from Alabama yield back his time?

Mr. SPARKMAN. I yield back any time I may have.

Mr. McINTYRE. Will the Chair explain the vote to Senators?

The PRESIDING OFFICER. All time has been used or yielded back. The question is, Shall the decision of the Chair stand as the judgment of the Senate? On this question the yeas and nays have been ordered.

Mr. TOWER. Mr. President, a vote of "aye" would be a vote to sustain the Chair?

The PRESIDING OFFICER. The Senator is correct.

Mr. McINTYRE. And a vote of "nay" would overrule the Chair?

The PRESIDING OFFICER. The Senator is correct.

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 Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), the Senator from Georgia (Mr. NUNN), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE), is 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 Georgia (Mr. NUNN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY), the Senator from Illinois (Mr. PERCY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 43, nays 44, as follows:

[No. 50 Leg.]

YEAS—43

Aiken	Byrd, Robert C.	Ervin
Allen	Clark	Fannin
Bartlett	Cook	Griffin
Beall	Cotton	Gurney
Bennett	Curtis	Hansen
Bentsen	Dole	Hatfield
Brock	Domenici	Helms
Byrd, Harry F., Jr.	Dominick	Hruska
	Eastland	Long
McClellan	Saxbe	Talmadge
McClure	Scott, Pa.	Thurmond
Metcalf	Scott, Va.	Tower
Packwood	Sparkman	Weicker
Pearson	Stafford	Young
Randolph	Stevens	

NAYS—44

Abourezk	Hartke	McIntyre
Bayh	Haskell	Montoya
Bellmon	Hathaway	Moss
Bible	Hollings	Muskie
Biden	Huddleston	Nelson
Brooke	Humphrey	Pell
Burdick	Inouye	Proxmire
Cannon	Jackson	Ribicoff
Case	Javits	Roth
Chiles	Johnston	Schweiker
Church	Kennedy	Stevenson
Eagleton	Magnuson	Taft
Fong	Mathias	Tunney
Gravel	McGee	Williams
Hart	McGovern	

NOT VOTING—13

Baker	Hughes	Percy
Buckley	Mansfield	Stennis
Cranston	Mondale	Symington
Fulbright	Nunn	
Goldwater	Pastore	

The PRESIDING OFFICER. On this question the yeas are 43 and the nays are 44. The decision of the Chair does not stand as the judgment of the Senate.

The question is on agreeing to the amendment of the Senator from New Hampshire (Mr. McINTYRE). On this question the yeas and nays have been ordered——

Mr. BENNETT. Mr. President, I move that the amendment be laid on the table, and I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to lay on the table the amendment of the Senator from New Hampshire. 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 Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), the Senator from Georgia (Mr. NUNN), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is 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 Georgia (Mr. NUNN) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY), the Senator from Illinois (Mr. PERCY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The Senator from Alaska (Mr. STEVENS) is detained on official business.

The result was announced—yeas 45, nays 41, as follows:

[No. 51 Leg.]

YEAS—45

Aiken	Bellmon	Byrd, Harry F., Jr.
Allen	Bennett	Cook
Bartlett	Bentsen	Cotton
Beall	Brock	Curtis
	Dole	Hatfield
	Domenici	Helms
	Dominick	Hruska
	Eastland	Javits
	Ervin	Johnston
	Fannin	Mathias
	Fong	McClellan
	Griffin	McClure
	Gurney	Packwood
	Hansen	Pearson
	Haskell	Roth
		Saxbe
		Scott, Pa.
		Scott, Va.
		Sparkman
		Stafford
		Taft
		Talmadge
		Thurmond
		Tower
		Weicker
		Young

NAYS—41

Abourezk	Hart	Metcalf
Bayh	Hartke	Montoya
Bible	Hathaway	Moss
Biden	Hollings	Muskie
Brooke	Huddleston	Nelson
Burdick	Humphrey	Pell
Byrd, Robert C.	Inouye	Proxmire
Cannon	Jackson	Randolph
Case	Kennedy	Ribicoff
Chiles	Long	Schweiker
Church	Magnuson	Stevenson
Clark	McGee	Tunney
Eagleton	McGovern	Williams
Gravel	McIntyre	

NOT VOTING—14

Baker	Hughes	Percy
Buckley	Mansfield	Stennis
Cranston	Mondale	Stevens
Fulbright	Nunn	Symington
Goldwater	Pastore	

So Mr. BENNETT'S motion to lay on the table Mr. McINTYRE'S amendment was agreed to.

AMENDMENT NO. 44

Mr. KENNEDY. Mr. President, I send to the desk amendment No. 44, as modified, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. KENNEDY. 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. KENNEDY'S amendment (No. 44, as modified) is as follows:

On page 5, after line 9, insert the following:

"HEALTH INSURANCE PRICES

"SEC. 8. Section 216 of the Economic Stabilization Act of 1970 is amended by inserting after subsection (c) (added by section 7 of this Act) a new subsection as follows:

"'(d) For so long as the President maintains controls upon wages and prices in the health services field of either a mandatory or voluntary nature, 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 health insurance prices, the reasons for any such change (including an analysis of price changes for hospital and physician services, of changes in benefit packages, and of changes in health insurance administrative costs), the extent to which the change is commensurate with rates of increase permitted for physician and hospital services under regulations implementing this title, and the actions he has taken or recommends to the Congress to be taken to stabilize health insurance prices.'."

On page 5, line 11, strike out "SEC. 8." and insert "SEC. 9.".

Mr. KENNEDY. Mr. President, I yield myself 3 minutes.

In the legislation that we are considering here today, there are procedures provided by which the President will notify Congress quarterly about increases in various food prices. The amendment I

have introduced would provide the same kind of reporting requirement for increases in health insurance.

There are more than 180 million Americans who are affected by increases in health insurance premiums. Increases in health care costs have far exceeded most other elements of the economy. There have been most dramatic increases in the costs of various insurance policies.

What we are interested in accomplishing by this amendment is to develop statistical information which will show the reasons for the increases in these health premiums. Many of the insurance companies say it is because they are providing more benefits. What we want here in Congress, I believe, is to determine for certain the reason and the justification for these increases. We are leaving the procedures by which this reporting will be developed completely to the President, but I do think that this amendment would give us in Congress a better handle on the whole subject of increased health insurance costs.

Mr. President, in recent years the cost of health insurance has risen precipitously. In the Government-wide Federal employees program, for example, premiums increased an average of 15.1 percent per year between 1966 and 1971.

Last year, even given the phase II controls, the Metropolitan Life group accident and health insurance program for employees of General Motors Corp. went up 29 percent. The Mutual of Omaha policy with the Teamsters Union of California rose 34.8 percent. Connecticut General's policies with Continental and Braniff Airlines rose 55 percent and 42.7 percent, respectively. The story is the same in industry after industry. More and more is being deducted from the taxpayer's paycheck to pay for health insurance. Both management and labor are paying more and more to cover negotiated health benefits.

Nor is the burden limited to large group health plans. In 1972, Mutual Life Insurance Co. of New York was granted an increase in their individual health insurance policy of 33 percent. When phase II ended, Metropolitan Life had pending a requested increase of 65 percent in their individual health and accident policies in New York. They were told to make their own determination of whether the increase was necessary.

Mr. President, these increases are far greater than the rate of increase in other areas of the economy. The rate of increase for health insurance even surpasses the 10.3-percent increase in spending for health services in fiscal year 1972.

The health insurance industry maintains that these radical increases are made necessary to cover expanded benefit packages as well as rising health service costs. Yet, according to the Social Security Administration, benefit payments by private health insurance carriers were up only 13 percent in 1972—the lowest increase in years. The combination of broadened benefits and higher health service costs simply does not seem to add up to the increases in health insurance premiums.

I might point out that the Social Security Administration indicates that the administrative costs of the private health insurance carriers were up 20 percent in 1972. That is double the increase in health services costs and one and one-half times the increase in the level of benefit payments.

The Social Security Administration also indicates this industry retained 19 percent more of premiums paid in fiscal year 1972 than in fiscal year 1971. They kept $2,100,000,000 in 1972, as compared to $1,685,000,000 in 1971.

Mr. President, I believe these facts warrant the closest review and scrutiny of health insurance prices during phase III. The President has indicated that he will retain controls on physician and hospital services under phase III. He has indicated no intention to maintain similar controls on the cost of health insurance. Indeed, phase II controls seem to have been only half-heartedly enforced. The list of Price Commission approved increases in this area is filled with enormous premium increases.

I do not agree with the President's decision on health insurance prices. On the other hand, I do not believe the Congress has enough hard information to insist on rigid controls on health insurance premiums.

The amendment I propose is aimed at assuring that the Congress is given hard information as the basis for possible action in the future. The amendment requires a quarterly report on price increases and their causes in this sector. It is directly analogous to the provision with respect to food prices that is already in S. 398 as reported by the committee.

Like food prices, health insurance premiums impact directly on the pocketbook of most Americans. In fiscal year 1972, over $19 billion flowed through the insurance industry.

I urge my colleagues to support this amendment in order that the Congress can have a clearer understanding of the reasons for health insurance premium increases.

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

Mr. KENNEDY. I yield.

Mr. SPARKMAN. Do I understand correctly that this amendment calls only for the reporting of information and statistics that will be gathered by the Government?

Mr. KENNEDY. The Senator is quite correct. There is no price ceiling in any part of this amendment. It is solely for gaining information in this particular field.

Mr. SPARKMAN. Mr. President, I will say that I have discussed this proposal with the Senator from Massachusetts, and I am willing to accept it.

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

Mr. KENNEDY. I yield.

Mr. TOWER. I wonder if the Senator would accept an amendment, on page 1, line 6, to insert after the words "the President" the following language:

so long as controls upon wages and prices in the health services industry of either a mandatory or voluntary nature are maintained,

Mr. KENNEDY. I have already modified the amendment to include such language as requested by the Senator from Texas.

Mr. SPARKMAN. I had so understood.

Mr. KENNEDY. The effect of those lines would make the reporting procedure required as long as there are any controls on doctors' fees or hospital fees. The amendment has been so modified.

Mr. SPARKMAN. I yield the Senator from Texas such time as he may require.

Mr. TOWER. On behalf of the minority, I certainly am prepared, at least on my own part, to accept the amendment of the Senator from Massachusetts, after a voice vote.

Mr. SPARKMAN. I yield back my time.

Mr. KENNEDY. I yield back the remainder of my time.

The PRESIDING OFFICER (Mr. CLARK). All remaining time having been yielded back, the question is on agreeing to the amendment (No. 44, as modified) of the Senator from Massachusetts (Mr. KENNEDY).

The amendment was agreed to.

AMENDMENT NO. 43

Mr. RIBICOFF. Mr. President, I call up my amendment No. 43 and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. RIBICOFF. I ask unanimous consent that further reading of the amendment be dispensed with.

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

Mr. RIBICOFF's amendment (No. 43) is as follows:

On page 5, line 2, delete lines 1 through 9 and insert the following:

SEC. 7. Section 203 of the Economic Stabilization Act of 1970 is amended by adding at the end thereof the following new subsection:

"Notwithstanding any other provision of this Act, the President shall impose mandatory price controls on all raw agricultural products and meat products at a level not to exceed the price level for each such product as of March 1, 1973.".

Mr. ROBERT C. BYRD. Mr. President, would the Senator indicate to me what this amendment is about?

Mr. RIBICOFF. Yes; this amendment provides for the extension of price controls to raw agricultural and meat products.

Mr. ROBERT C. BYRD. Mr. President, would Senators be amenable to cutting the time on this amendment to 20 minutes, rather than 30 minutes?

Mr. RIBICOFF. Yes, I am willing to do that.

Mr. ROBERT C. BYRD. I ask unanimous consent that the time on the pending amendment be 20 minutes, to be equally divided.

The PRESIDING OFFICER. Is there objection to the request of the Senator from West Virginia? The Chair hears none, and it is so ordered.

Mr. RIBICOFF. On this amendment, I ask for the yeas and nays.

The yeas and nays were ordered.

FOOD PRICE FREEZE

Mr. RIBICOFF. Mr. President, I am calling up this amendment to end the

skyrocketing cost of food. I am pleased to be joined in this amendment by Senators PELL, PASTORE, and WILLIAMS.

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 phase 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 wholesale-retail 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. The farmer received 33.4 cents of every food dollar, the retailer got 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 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.

It is impossible for me to understand Mr. President, how we can possibly succeed in keeping the cost of living and inflation from rising to astronomical heights unless we freeze the prices of raw agricultural products and meats. How can we ask the working men and women of America to limit their wage increases to 5.5 percent, when they cannot go into their grocery stores and their supermarkets and pay for their weekly market basket?

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

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Rhode Island.

Mr. PELL. I am glad to support the amendment of the Senator from Connecticut. I think if we just think what is at the base of anyone's life, we find we are talking about food. When there is food, the family eats. That is the most essential thing for survival—more essential than shelter, clothing, or any other factor in the environment.

We are in a situation now where the factor that has gone up more than any other in the cost of living is food. If we could adopt this amendment, I believe it would provide some sort of ceiling for the chief problem that I believe plagues our housewives and our citizens more than any other single one, and that is the increasing cost of food.

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

Mr. RIBICOFF. I am pleased to yield to the distinguished Senator from Vermont.

Mr. AIKEN. Am I correct in assuming that the Senator's amendment would apply to coffee, tea, cocoa, and copra?

Mr. RIBICOFF. That is correct.

Mr. AIKEN. How would you enforce the price controls in other countries?

Mr. RIBICOFF. We could not enforce the prices in other countries. We could make sure that what comes into the country is subject to price controls. In any event the bulk of the goods in American supermarkets are produced on American farms.

Mr. AIKEN. Would it apply to casein, which is used in paints and other such products?

Mr. RIBICOFF. There is no way that we can control those products outside the continental United States, but that does not prevent us from trying to stop the rising food prices of goods produced in the United States.

Mr. AIKEN. Would it include the products of the farm wood lot—lumber?

Mr. RIBICOFF. The price of what?

Mr. AIKEN. Fireplace wood, lumber, and logs.

Mr. RIBICOFF. No; the housewife does not have lumber in her food basket. I hope it does not reach the stage where sawdust gets to be a part of the ingredients of the American diet.

Mr. AIKEN. Just foods only, or raw agricultural products? I would say that 5,000 feet of hemlock logs would be an agricultural product.

Mr. RIBICOFF. I would be more than pleased to accept an amendment of the Senator from Vermont to extend it to raw agricultural products used for human consumption.

Mr. AIKEN. Well, the price of coffee has shot up in the last 3 weeks.

Mr. RIBICOFF. Coffee has gone up 40 percent. Cocoa has gone up 47 percent. Meats, eggs, bacon, and wheat, the basic ingredients of the typical American breakfast, are all skyrocketing. While there may be certain products that we cannot control, there is no excuse for us not to try to control the prices of foods that are grown on American farms.

Mr. AIKEN. Would the price of meat products apply to the meat products sold in restaurants to the consumer?

Mr. RIBICOFF. Yes; that is correct.

Mr. AIKEN. Would it include tips?

Mr. RIBICOFF. Would include what?

Mr. AIKEN. Would it hold down the cost of tips?

Mr. RIBICOFF. No. That is a service. That is a service that goes by the name of a gratuity. Nobody is trying to control gratituties. While I appreciate the sense of humor of my distinguished colleague from Vermont, it does not obviate the situation when we consider the high cost of food. It is not a laughing matter for the housewife who finds that the money her husband gives her to go to the market

will not take care of the needs of her family.

Mr. AIKEN. I do not think the price of maple syrup is going up this year. It went quite high last year. But does the Senator from Connecticut understand that the cost of eating out is also charged to the farmer?

Mr. RIBICOFF. Well, I would say that except for the very wealthy, eating out is almost an impossibility today. I find today that most people, including myself, eat at home.

The average wage earner, the average individual, finds it absolutely impossible to make ends meet with the high cost of food—80 percent of which is attributable—to the farmer. One of the solutions proposed by the administration's Cost of Living Council is to eat less. My solution is to freeze all food prices.

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

Mr. AIKEN. I have no more questions.

Mr. TALMADGE. Will the Senator yield to me?

Mr. SPARKMAN. Mr. President, how much have I remaining?

The PRESIDING OFFICER. The Senator has 10 minutes remaining.

Mr. SPARKMAN. I yield 3 minutes to the chairman of the Agriculture Committee.

Mr. TALMADGE. I hope this amendment will not be agreed to. If it is, it will be counterproductive.

I think everyone remembers when we tried to control the price of food in World War II and during the Korean war. What happened? Black markets appeared, no food was on the shelves. Commodities were not available. It was necessary to find a bootlegger to buy food. That is what will happen in this situation.

We cannot repeal the law of gestation. It takes 9 months to produce a calf. It takes another year to fatten the calf for the market.

The cost of food is high in this country because a lot of people are eating most who never used to.

We are using $4 billion worth of food stamps, and putting meat on the table for people who never had it before.

In addition, our society is more affluent than it ever was before. A lot of commodities that used to be shipped into this country are being shipped to Europe, because they are paying higher prices than we are.

I know of nothing that would be more counterproductive than to try to regulate the prices of raw agricultural commodities, particularly when they fluctuate so severely.

We know what the farmer receives, only 33 cents, out of the food dollar.

We know how much wheat is in a loaf of bread that sells for a quarter—4 cents worth.

We know how much cotton is in a shirt that sells for $5—35 cents worth.

We are trying to impose a burden on the farmer, who is not responsible for these costs.

It spreads into other areas. The man who puts the milk on the supermarket shelf in Chicago earns more than the farmer who operates a dairy with an investment of half a million dollars, with no return for his labor.

No one likes high food costs. My wife complains about them every day. But do you know how much the cost of food has increased in this country since 1965? It will come as a shock—33 percent.

Do you know how much wages and income have increased since 1965? Sixty-four percent, which is just exactly twice as high.

It always amazes me that somebody will complain about the cost of a dozen eggs that sold, for more than 2 years, below the cost of production, but will not raise his voice about a bottle of beer that costs 50 cents.

Food in this country is the cheapest commodity on the face of the earth, and I will tell you why. Seventeen percent of the average factory worker's pay in America goes for food.

Do you know the next lowest country on the face of the earth? Canada, over 20 percent.

Do you know the next lowest? Great Britain. It is about 30 percent there.

Most of the countries of Europe pay about 50 percent of their take-home pay for food.

In the United States it is 17 percent.

In the Soviet Union it is 50 percent.

In many of the underdeveloped countries of this world it is as high as 90 percent.

I hope that we will not, in a moment when people are concerned about the price of food, do something so thoughtless that it will rise to haunt us. If we do, we will drive food off the shelves, and we will have food going into the black markets and peddled by bootleggers, instead of in legitimate circles.

The only way we can reduce the price of food is to produce more of it. Forty million more acres are going to be planted this year, than were planted last year.

Fifteen million more acres are going to be released and set aside to graze livestock.

The only way to bring the cost of food down is to produce more of it. What we should be doing, instead of blaming the poor old farmer for the high costs, is to blame the middleman. Last year in America housewives spent $116 billion for food.

Do you know how much of it went to farmers? Thirty-nine billion dollars.

Do you know how much of it went to the fellow that processed and marketed it? Seventy-seven billion dollars.

One-third goes to the farmer, two-thirds goes to the fellow that processes it and markets it.

Let us put the blame for these high costs on the poor fellow who only earns about three-fourths of what the nonfarmers earn.

Mr. SPARKMAN. Mr. President, does the Senator from New York desire time?

Mr. JAVITS. I would like 5 minutes.

Mr. SPARKMAN. Mr. President, may I ask how much time I have?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. SPARKMAN. Will the Senator from New York take 3 minutes?

Mr. JAVITS. Will the Senator give me 5 minutes, a minute or two of it on the bill?

Mr. SPARKMAN. I have only 7 minutes.

Mr. JAVITS. I wish to speak on the amendment.

Mr. SPARKMAN. I will yield the Senator from New York 5 minutes.

Mr. JAVITS. Mr. President, the Achilles heel of price controls is being touched on by this amendment. The Senator from Connecticut (Mr. RIBICOFF) and all of us know that if this amendment is carried, it is not going to become law as it is. It does not have provisions for correcting inequities. It does not have provisions for small factory farms, and it does not provide for many other things that would be necessary to control the prices of raw agricultural products.

It does not relate to the problem of the Senator from Vermont (Mr. AIKEN) of imports from abroad. Nobody is trying to put too much of a burden on the farmer; but the fact is that with the American markup system, we have an unregulated base as it goes through the market system to the places that are under control. That is the point not made here, that the control is basically ineffective, because the material fed into the system is not under control and is subject to all kinds of haphazard market forces, which is an enormous problem. There are lots of farmers, not only in feed grains but farmers who raise chickens and farmers who milk cows; and they are suffering terribly. They are getting squeezed because feed grains are so inordinately high and they cannot collect the money it takes at the other end. They could be benefited from controls, wisely administered.

The main point, as I read the Ribicoff amendment—and I shall support it—is that it is really a declaration of the intention of Congress that if we are going to have a system that will curb inflation through some form of price control, phases I, II, or III, we have got to control agriculture at the source or it is meaningless.

So as an expression of intent, I am sure that the Senator from Connecticut (Mr. RIBICOFF), who is an excellent lawyer, would himself admit that this is not a finished provision, but as an expression of the intent of the will of Congress that this shall be done, he is absolutely right. The President should do it, whether the amendment passes or not, under the general powers that he will have under the Economic Stabilization Act and, in addition, the marketing services of the country should be enormously strengthened.

I do not agree with those who laugh at Virginia Knauer. The consumer is the greatest fellow in the world for regulating prices. It is just as the television people tell us: we do not need television censorship, because all the television viewer has to do is to flick that switch and that is all the censorship we need. The same is true with prices.

I repeat and then I shall sit down, that this is the deepest and most exciting cause, the question of the uncontrollable price structure. Somehow, we have to get hold of it. If we adopt this amendment it will be a beginning, to show that we are not afraid of this particular kind of control, that we need it, but that it has to be fashioned properly. But, basically, in principle, it is right and I shall support it.

FREEZE ON FEED GRAINS

Mr. President, the Achilles heel of phase III is the ongoing rampant increase in food prices. It is my concern that this rampaging inflation in food prices threatens the whole economic stabilization program of the United States and may lead to the resurgence of inflationary pressures which are so disruptive to our national economy. Clearly, this extraordinary increase in food prices will impact the major labor negotiations coming up this year and bias these negotiations toward more inflationary settlements.

The administration has approached this problem from the short-term demand side by exhorting the American consumer to consume less of the higher priced agricultural products such as meat. On the supply side, import quotas have also been suspended on meat imports and programs are underway for the disposal of remaining Government grain stocks. Over the longer term, the Government has taken measures which should result in increased supplies of many price sensitive farm commodities with special reference of feed grains.

However, in my view these measures are inadequate since they do not address themselves to the short-term problem of rapidly increasing food prices. Disruptive short-term problems require a positive response otherwise they can get out of hand, and cause long-term injury to the American economy as a whole.

I, therefore, urge the President to use the authority he already has to clamp a 4-month freeze on feed grain prices at the point of initial sale. Such a freeze would not injure the farmer producing feed grains since there has been an enormous price increase for such feed grains over the past 6 months. A price freeze is not a price rollback and the American feed grain producer would continue receiving a price for his produce that insures a very healthy profit. However, the freeze while maintaining a good profit margin, would halt the relentless upward pressure of feed grain prices that have characterized the last 6 months and which will characterize the next 4 months.

In turn, this upward pressure of feed-grain prices has sharply pushed up the prices of beef, poultry, eggs, dairly products since such feed grain costs account for 65 to 80 percent of the cost of producing a pound of beef or a dozen eggs.

Also, if such a freeze on feed grain prices were imposed after the spring planting are in the ground, this would not have an adverse impact on future supplies. And with the increased planting that are now in the works, the temporary 4-month freeze could be lifted at the very time when the new harvest is coming in. Under these conditions talk of rationing is little more than scare tactics that are not germane to the temporary freeze measure I am advocating.

I do not favor an across-the-board control on raw agricultural food prices since they would be unfair. The unfairness would arise, because it would adversely impact those food producers who are dependent on raw agricultural inputs such as feed grains which already have increased enormously in price. In other words, high feed grain costs have already enormously increased the costs to the dairy farmer and poultry raiser in terms of producing milk, eggs, and poultry and a freeze extending to these areas could unjustly squeeze profit margins. The same consideration does not come into play in the feed grain area where prices and profit margins have skyrocketed in recent months.

In conclusion Mr. President, the administration must act now and impose the selective temporary freeze on feed grain prices. What is at stake is nothing less than the stability of the American economy.

I ask unanimous consent that an article from Business Week of March 20 be printed in the RECORD.

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

WHY THE FLOAT MAY WORK

When the badly shaken currency markets of the world reopen next Monday morning, they will be operating for the first time in 25 years without the discipline of officially fixed exchange rates. Successive waves of speculation against the dollar have overwhelmed the central bankers who tried to set specific rates on their currencies in terms of dollars. As a last resort, they have abandoned the commitment to defend official exchange rates, thus setting their currencies afloat.

This is a somewhat scary prospect for banks and businessmen who must make future commitments payable in marks, yen, francs, or pounds. But it is not necessarily bad. In the short run, it is the only way to deal with the immediate crisis. And in the longer run it could point the way to a more flexible, more effective international payments system.

The old system of fixed rates offered speculators a no-lose opportunity to bet against the dollar. If they bought marks and did not get the revaluation they expected, they could always get back into dollars at the same price. But with floating rates, the dollar can move up as well as down. It is possible for speculators to lose as well as win or draw.

After the initial shakedown, free market forces will tend to establish exchange rates that fairly reflect the relative trading strengths of the various nations. These rates can provide the starting point for agreement on a new international monetary system.

The danger is that central banks and finance ministries will try to manipulate the floating rates to gain a trade advantage—and that they will build protective tariff and quota walls around their economies to offset the effects of rate changes on trade. Step by step, this could lead the world into a trade war in which all nations would be losers.

In the months ahead, the U.S. will have to use all its bargaining strength to head off such a protectionist trend and steer the world toward a more realistic, workable set of rules for trade and money alike.

HOW TO CONTROL FARM PRICES

It is easy to understand President Nixon's reluctance to clamp down on farm prices. The area is littered with the bones of past price controllers. But does he have any choice? Farm prices are running up the cost of living, making a farce out of Phase III, and threatening to touch off an explosion of inflation. The Administration expects them to come down in the autumn, but that will be too late to make any difference in the crucial wage negotiations scheduled for the spring and summer.

Administration spokesmen say controls would lead to shortages, black markets, and rationing. These would be valid objections to permanent controls on farm prices. But that is not what the nation needs. It needs a short, tough program that will apply ceilings now and continue then until the 1973 crops are harvested.

It is not true that the President is powerless in this situation. He could, for instance:

Put ceilings on meat prices at retail, using recent prices as the standard. Given the concentration in food retailing and the nature of the processing chain for meats, this should quickly put an effective ceiling on the prices farmers get for livestock. And with beef and pork prices at all-time highs, there will be no reason for farmers to cut their herds.

Announce that controls will be applied at central markets to wheat and feed grains if these prices start rising again. Export prices need not be controlled. With the ports clogged already, there is little chance that supplies will be diverted overseas.

Revoke the January order that freed broiler producers from controls. Since most producers raise the chicken and process it before initial sale, the effect of the order was to remove one of the few controls that reached back to the producer level.

Make sure that the Agriculture Dept. does not use marketing orders to force up prices.

Just by themselves, these four steps would take a lot of the bounce out of farm prices. As part of a broader, tougher control system, they would give the country a fighting chance to stop the renewed inflation that is in the making.

Mr. SPARKMAN. Mr. President, I believe I am correct that I have how many minutes left? Two minutes?

The PRESIDING OFFICER (Mr. HOLLINGS). Two minutes remain to the Senator from Alabama.

Mr. SPARKMAN. I want to say just this——

Mr. AIKEN. Under the law which this Congress has enacted, the price of milk has to be increased to the farmer this coming month. I do not know how much it is, but I think the price is about 30 cents a hundred pounds over what it was on the 1st of March. The law requires milk to be supported at not less than 75 percent parity and as of March 1 the price was only 72 percent.

What the Senator from Connecticut is doing is canceling out, abrogating agricultural laws which are on the books and which this Congress has put on the books.

Another thing I did not make plain is that raw lumber is an agricultural product. To freeze the price of that raw lumber where it was on March 1, with the Japanese buying everything they can find in sight at any price, means that no one could afford to build a house with prices frozen at the March 1 level.

Mr. COOK. Mr. President, will the Senator from Alabama yield me 30 seconds?

Mr. SPARKMAN. Do I have 30 seconds?

The PRESIDING OFFICER. One minute remains to the Senator from Alabama.

Mr. SPARKMAN. I yield 30 seconds to the Senator from Kentucky.

Mr. COOK. I thank the Senator. I should like to make the point that the Senator from Vermont just made, that if we freeze the price of lumber at the first of March level—it has already gotten so high that the price of an average house has gone up $1,200 over last year—therefore I would suggest that if we freeze the price of raw agricultural prod-

ucts as of March 1, we will freeze that increase in, rather than to see productivity bring down the cost of lumber.

Mr. SPARKMAN. Mr. President, I yield myself 2 minutes on the bill to say that the Senator from Kentucky and the Senator from Vermont have both expressed the situation very well.

I want to add just this, that the testimony before the committee by people who will be in charge of carrying out the phase III program testified that it was virtually impossible to control raw products and that we had never placed controls on raw products.

Mr. AIKEN. I would say, to repeal legislation which has been put on the books by Congress relative to support prices for farm products, and particularly on milk, will distinctly make this proposed amendment nongermane or out of order. At least, it should be considered by the proper committee.

Mr. McGOVERN. Mr. President, the Ribicoff amendment would freeze raw agricultural prices at their March 1, 1973, level. I strongly oppose this amendment. What are the facts?

Parity, which is still a pretty good measurement despite Dr. Butz' objections, for 1972 stood at 74 percent of the 1910–14 base period, and 79 percent when Government payments were included.

The Moss amendment to freeze only retail food prices only for 90 days is the effective way; a total freeze on farm prices would insure depressed, rather than increased, supply of food and the resulting rationing and black markets that accompanied price controls during the Korean war.

Writing in the Evening Star and Daily News yesterday, Richard Wilson said that a series of five Federal orders during the Korean war cut meat prices 10 percent. In a few weeks there was a cattleman's revolt which closed down meat packing plants for lack of supplies. Feed lots emptied and black markets developed in Omaha and Chicago.

To freeze prices on the farm today would end any economic incentive for cattle feeders to expand production as rapidly as they can to take advantage of today's fair price levels and hopefully bring about stabilized prices later this year.

The Ribicoff approach unjustifiably singles out the farmer for blame when, as pointed out in the memorandum on the Moss amendment, the food processing and marketing industry has taken a great share of the increased retail prices, despite phase II.

It does little for the purchaser of a 1-pound loaf of bread, who paid 25 cents for that loaf of bread in December of 1972, to freeze the price of wheat. The wheat in that loaf of bread in December 1972 cost only 3.7 cents, but the retailer's spread amounted to 4.7 cents.

It is unfair to the farmer to freeze the prices he receives when, in many cases, his income still has not reached a fair price.

While the domestic wheat price is supported at 100 percent of parity, the nondomestic price last year was supported at only 41 percent of parity. Corn last year was supported at 68 percent of parity, oats at 54 percent, and rye at 56 percent. The Secretary recently announced a milk support at the minimum level allowed by law, 75 percent. Until these farm prices reach a level that is on a par with other segments of the economy, it is unfair to freeze farm prices.

What the farmer needs is more effective controls on the prices of the production items he must busy. Phase I and phase II controls were not evenhanded. While the administration kept a tight lid on wages, these industries which sell to the farmers, as well as other industries, were allowed in some cases to earn windfall profits. The Business Week survey showed that chemicals, as a group, increased profits by 29 percent from 1971 to 1972. The special machinery group, including farm, construction, and materials-handling industries, increased its profits by 71 percent from 1971 to 1972.

Over the past 25 years, the farmer has seen the price of motor vehicles such as tractors and trucks go up 103.4 percent, the price of seed increase 16.9 percent, the price of farm machinery 141 percent and interest costs go up 802.5 percent. Faced with cost increases such as this, it is not equitable to deny farmers the increased income necessary to have a minimum wage in today's economy.

I ask unanimous consent to have printed in the RECORD some tables from the Farmers Union and the Library of Congress which illustrate some of the arguments outlined above.

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

THE LIBRARY OF CONGRESS,
CONGRESSIONAL RESEARCH SERVICE,
Washington, D.C., March 1, 1973.

To: Hon. George McGovern
From: Senior Specialists Division
Subject: Information on the Wheat Certificate program and recent bread prices.

The attached information is in answer to the five questions in your letter of February 27.

The pages from Federal Wheat Commodity Programs deal with No. 1.

The chart "Average retail price of a 1–lb. loaf of white bread" answers No. 2 and No. 3.

Question four is partially answered by the table "Estimated retail and wholesale price of a 1–lb. loaf of bread, December 1972."

In December 1972 the cost of the wheat certificate program accounted for 0.9 cent in the cost of a loaf of bread.

JANICE E. BAKER,
Research Assistant in Agriculture.

AVERAGE RETAIL PRICE OF 1-LB LOAF OF WHITE BREAD

[In cents]

	December 1972	Annual 1972
Nationwide	25.0	24.7
New York City	30.2	30.3
Los Angeles	26.8	26.4
Chicago	25.5	24.6
Dallas	22.2	22.3
Washington, D.C.	23.8	22.9

Estimated retail and wholesale price of a 1-lb loaf of bread, December 1972

[In cents]

Retail price	25.0
Retail spread	4.7
Wholesale price	20.3
Baker-wholesale spread	13.1
Cost to baker:	
All ingredients	7.2
Flour	4.9
Mill sales value of flour	4.7
Miller's flour spread	0.9
Cost of wheat to miller	3.8
Other spreads	1.7
Farm value:	
All ingredients	4.6
Wheat	3.7
Flour prices:	
F.o.b. mill	7.44
Delivered to bakers	7.81
Flour sales:	
Sold in bags	12.0
Price differential for bags	18.0
Wheat prices:	
Farm delivery point	2.33
Delivered to millers	3.15

FARM STATISTICAL REPORT

To: Farmers Union Co-Workers and Friends
From: Reuben L. Johnson

The attached Farm Statistical Review concerning United States Agriculture is intended to give you up-to-date resource material for speeches, articles, press releases, etc.

As you put this information to use we would appreciate thought being given to ways in which it can be improved.

SUPPORT PRICES FOR FARM COMMODITIES 1960, 1968, 1970, AND 1972

Supported commodities	Unit	Parity price 1972	1972 support	1972 support percent of parity	1970 support	1970 support percent of parity	1968 support	1968 support percent of parity	1960 support	1960 support percent of parity
Wheat	Bushels	$3.03	[1] $3.03	100	[2] $2.82	100	$2.63	100	[3] $1.78	75
			[4] 1.25	41	[4] 1.25	45	1.25	48		
Corn (No. 2)	do	2.00	[5] 1.35	68	[6] 1.38	78	1.35	77	1.06	65
Sorghum	Hundredweight	3.33	[7] 2.47	74	[8] 2.14	74	2.15	82	1.52	61
Barley	Bushel	1.58	[9] 1.18	75	[9] 1.03	71	.90	68	.77	61
Oats	do	1.00	.54	54	.63	66	.63	72	.50	60
Rye	do	1.60	.89	56	1.02	68	1.02	72	.90	60
Rice	Hundredweight	8.10	5.08	63	3.86	65	4.60	67	4.42	75
Soybeans (No. 1)	Bushels	4.17	2.25	54	2.25	60	2.50	76	1.85	64
Flaxseed	do	4.46	2.50	56	2.50	58	2.90	72	2.38	62

SUPPORT PRICES FOR FARM COMMODITIES 1960, 1968, 1970, AND 1972—Continued

Supported commodities	Unit	Parity price 1972	1972 support	1972 support percent of parity	1970 support	1970 support percent of parity	1968 support	1968 support percent of parity	1960 support	1960 support percent of parity
Cottonseed	Ton	$83.57	(3)		$37.00	49	$48.00	70	$38.00	57
Cotton (Upland)	Pound	.5515	[10] $0.345	63	[11] .3705	76	.3249	73	.322	83
Peanuts	Ton	380.17	279.00	73	255.00	75	240.25	77	201.24	79
Dry beans	Hundredweight	12.99	6.40	49	6.40	55	6.38	61	5.35	61
Milk, manufacturing	do	7.88	4.93	63	4.66	67	4.28	89	[12] 3.22	80
Butterfat	Pound	1.05	(3)		.715	74	.66	76	[12] .596	80
Tobacco, flue-cured	do	1.07	.727	68	.666	69	.616	71	.555	90
Wool	do	1.06	.72	68	.72	74	.67	78	.62	86

[1] Price support includes the $1.25 per bushel loan and purchase rate applicable to the entire production plus marketing certificates on 535,000,000 bushels of the 1972 crop equal to the difference between July 1972 parity price and the national average wheat price received by farmers during the 1st 5 months of the marketing year beginning July 1.

[2] Support for domestic food use—$1.25 loan rate plus certificate on 530,000,000 bushels to equal the parity price.

[3] All wheat.

[4] Support for wheat production not certificated.

[5] The payment rate for corn plus the national average market price received by farmers for corn during the 1st 5 months of the marketing year (beginning Oct. 1) for the crop cannot be less than (a) $1.35 per bushel, or (b) 70 percent parity of corn on Oct. 1, 1972, whichever is greater. Payment is available on 50 percent of corn base times farm yield. The preliminary payment of $0.40 per bushel is contingent on acreage set aside of at least 25 percent of the feed grain base.

[6] Included price-support payment for 1970 on ½ of base acreage as follows: corn, 30 cents; sorghum, 54 cents (hundredweight); barley, 20 cents; corn, grain sorghum and barley loan rates were $1.08 (No. 2), $1.61, and $0.83 respectively, 20 percent reduction from feed grains base required to qualify for payment.

[7] Total support for grain sorghum includes loan rate of $1.79 per hundredweight plus price support payment of $0.68 per hundredweight on ½ of base times farm yield.

[8] Loan rate of $0.86 per bushel plus $0.32 payment.

[9] No price support.

[10] Loan rate of $0.195 per lb. plus $0.15 payment.

[11] Included price-support payment of 16.80 cents per pound to qualifying producers (except 10-acre or under producers—or projected production from allotment of 3,600 pounds or under—received higher price without acreage reduction.)

[12] Support price for period Sept. 17, 1960 to March 9, 1961. Support from April 1 to Sept. 16, 1960, was $3.06 hundredweight for milk, and $0.566 a pound for butterfat.

[13] All wheat.

COMPARISON OF CONGRESSIONAL AUTHORIZED LEVELS OF PRICE SUPPORTS—1965 AND PRIOR ACTS WITH 1970 AGRICULTURE ACT

Supported commodities	Unit	Congressional directed range of support: 1965 and prior agricultural acts (percent)	1970 Agricultural Act: Loans and payments	1970 Agricultural Act: Percent	1972 support: Amount	1972 support: Percent
Wheat, domestic certificate	Bushels	100	Domestic certificate [1] 1.25 loan certificate value	100	$3.03	100
Noncertificated	do	0–100	1.25 noncertificate	45	1.25	41
Corn (No. 2)	do	[2] 65–90	1.08 loan [3]		[4] 1.35	68
			.32 preliminary payment.			
Grain Sorghum [5]	Hundredweight		1.73 Loan [6]		[4] 2.47	74
			.52 preliminary payment.			
Barley [5]	Bushels		.81 loan	53.3	1.18	75
Oats [5]	do		.54 loan	55.5	.54	54
Rye [5]	do		.89 loan	57.4	.89	56
Cotton, upland	Pound	65–90	.195 loan [7]	66.7	[8] .345	63
			.15 payment.			
Cottonseed	Ton	0–90	37.00	50.0	(9)	(9)
Rice	Hundredweight	65–90	65–90 (loan 5.07)	65	5.08	63
Soybeans	bushel	0–90	0–90 (loan 1.25)	56.5	2.25	54
Flaxseed	do	0–90	0–90 (loan 2.50)	55.8	2.50	56
Peanuts	Ton	75–90	75–90 (loan 268.50)	75	279.00	73
Dry beans	Hundredweight	0–90	0–90 (loan 6.40)	52.90	6.40	49
Milk, manufacturing	do	75–90	75–90 (support level 4.93)	85.0	4.93	63
Butterfat	Pound	75–90	75–90 (support Level 0.678)	69	(9)	(9)
Tobacco, flue cured	do	(10)	(10) (loan 0.694)	68.7	.727	68
Wool	do	(11)	(12) (loan 0.72)	71.3	.72	68

[1] (a) Domestic certificate wheat—100 percent of parity as of the beginning of the marketing year (July 1); (b) Noncertificate wheat—at level not in excess of 100 percent of parity as of the beginning of the marketing year, or not less than $1.25 per bushel, and taking into consideration competitive world wheat prices, the feed value of wheat in relation to feed grains, and the level at which price support is made available for feed grains. Price support includes $1.25 per bushel loan and purchase rate applicable to the entire production plus marketing certificates for the 1971 crop equal to the difference between July 1971 parity price and the national average wheat price received by farmers during the first five months of the marketing year.

[2] If acreage diversion program was in effect.

[3] The payment rate for corn plus the national average market price received by farmers for corn during the 1st 5 months of the marketing year for the crop cannot be less than (a) $1.35 per bushel, or (b) 70 percent parity of corn on Oct. 1, whichever is greater. Payment is available on 50 percent of corn base times farm yield. The preliminary payment of $.32 per bushel is contingent on acreage set aside of at least 20 percent of the feed grain base.

[4] Included price-support payment in 1972 on ½ of base acreage as follows: Corn, 40 cents; sorghum, 68 cents (hundredweight); barley, 32 cents; corn, grain sorghum, barley, oats and rye loan rates are $1.08, $1.79, $0.86, $0.54, and $0.89 respectively 25 percent reduction from feed grains base required to qualify for payment.

[5] Grain sorghums, barley, oats, and rye are supported at levels determined by the Secretary, taking into consideration feeding value relationships, and which are fair and reasonable in relation to loans and purchases made available for corn, and taking into consideration the feeding value of wheat in relation to feed grains.

[6] Total support for grain sorghum includes loan rate plus price support payment. Preliminary payment will be made available on 50 percent of grain sorghum base times farm yield at a rate comparable to corn preliminary payment.

[7] Loan rate: To cooperators shall be at such level as will reflect for middling 1-inch upland cotton (micronaire 3.5 through 4.9) at average location in the United States, 90 percent of the average world price for such cotton as determined by the Secretary, for the 2-year period ending July 31 in the year in which the loan level is announced. For 1971, the loan rate of 0.1950 cents per pound on a net weight basis is equivalent to 0.1870 cents per pound, gross weight, micronaire 3.5 through 4.9 at average location.

[8] Included price-support payment of 16.80 cents per pound earned on the farm's domestic allotment, which was 65 percent of the effective farm allotment. The loan rate was 20.25 cents per pound.

[9] No support program in effect in 1971 and 1972.

[10] Adjusted annually in accordance with changes between the 1959 parity index and the average parity index for the 3 years preceding the year for which support is being determined.

[11] Adjust annually by multiplying 62 cents by the ratio of the average parity index for the 3 preceding calendar years to the average parity index for the calendar years 1958, 1959, and 1960.

[12] Price support relationship to parity (see footnote 8) repealed. Price support will be $0.72 per lb. in 1971–73.

INDEX OF PRICES RECEIVED BY FARMERS, UNITED STATES

[Base period 1910–14=100]

Unit	Average 1947–49	Average 1969	Average 1970	Average 1972	Percentage change 1972 from 1947–49
Parity ratio [1]	108	74	72	74	
All farm products	271.0	274.0	280.0	319.0	+17.7
All crops	247.0	220.0	227.0	261.0	+5.7
Food grains	246.0	154.0	162.0	192.0	−22.0
Feed grains and hay	230.0	167.0	177.0	183.0	−20.4
Cotton	264.0	173.0	183.0	245.0	−7.2
Tobacco	384.0	594.0	604.0	685.0	+78.4
Oil-bearing crops	318.0	252.0	266.0	320.0	+.6
Feed grains	241.0	165.0	176.0	176.0	−27.0
Fruit	183.0	246.0	245.0	280.0	+53.0
Fresh market		243.0	243.0	298.0	
Commercial vegetables	249.0	298.0	294.0	329.0	+32.1
Fresh market		359.0	363.0	425.0	
Potatoes, etc.[2]	232.0	208.0	222.0	235.0	+1.3
Livestock and products	292.0	323.0	326.0	369.0	+26.4
Meat animals	334.0	400.0	405.0	492.0	+47.3
Dairy products	275.0	326.0	345.0	365.0	+32.7
Poultry and eggs	229.0	162.0	151.0	136.0	−40.6
Wool	259.0	226.0	194.0	208.0	−19.7
Retail food prices (1967=100)	73.5	108.9	114.9	123.5	+68.0

[1] Adjusted parity ratio which includes Government payments averaged 77 for year 1970 and 79 for 1972.

[2] Includes sweet potatoes and dry edible beans.

Source: "Agricultural Prices," USDA, monthly issues; Bureau of Labor Statistics.

PARITY RATIO AND INDEX OF PRICES PAID BY FARMERS—Continued

[Base period 1910–14=100]

Item	Average 1947–49	Average 1969	Average 1970	Average 1972	Percentage change 1972 from 1947–49
Parity ratio [1]	108	74	72	74	
All items	250	373	390	433	+73.2
Family living	244	351	366	401	+64.3
Food and tobacco	239	344	362	370	+54.8
Clothing	285	447	475	500	+75.4
Household operation	178	246	256	270	+51.7
House furnishings	256	282	291	299	+16.8
Building materials, house	339	503	498	535	+57.8
Auto and auto supplies	233	376	392	419	+79.8
Production items	237	304	314	350	+47.7
Feed	231	205	216	229	−3.0
Feeder livestock	348	436	450	544	+33.3
Motor supplies	140	190	193	203	+45.0
Motor vehicles, auto, trucks and tractors	290	545	567	610	+103.4
Farm machinery	239	509	537	576	+141.0
Farm supplies	235	286	293	303	+28.9
Building and fencing material	296	464	469	505	+70.6
Fertilizer	143	142	148	155	+8.4
Seed	242	254	266	283	+16.9
Interest [2]	79	569	611	713	+802.5
Taxes [3]	270	1,097	1,191	1,377	+410.0
Wage rates	430	1,010	1,083	1,249	+190.5

[1] Adjusted parity ratio which includes Government payments average 77 for year 1970 and 79 for 1972.
[2] Interest payable per acre on farm real estate debt.
[3] Farm real estate taxes payable per acre (levied in preceding year).

Source: "Agricultura Prices," USDA, monthly issues.

AVERAGE PRICES RECEIVED BY FARMERS FOR FARM PRODUCTS, UNITED STATES

Commodity	Unit	1947–49 crop average	Average 1969	Average 1970	Average 1972	Percent change 1972 from 1947–49
All wheat	Bushel	$2.05	$1.78	$1.93	$2.22	+8.3
Rye	do	1.64	1.00	.985	.936	−42.9
Rice (rough)	Hundredweight	4.98	4.95	5.17	6.60	+32.5
Corn	Bushel	1.56	[1] 1.28	1.47	1.55	−0.6
Oats	do	.804	.586	.626	.668	−16.9
Barley	do	1.32	[1] .927	[1] 1.02	[1] 1.35	+2.3
Sorghum, grain	Hundredweight	2.52	[1] 2.18	[1] 2.38	[1] 2.88	+14.3
Hay, all baled	Ton	22.80	24.70	26.00	39.20	+71.9
Cotton, upland	Pound	.293	[1] .3708	[1] .394	[1] .391	+33.4
Cottonseed	Ton	65.50	41.10	56.45	48.68	−25.7
Soybeans	Bushel	2.59	2.35	2.85	3.49	+34.7
Peanuts	Pound	.103	.123	.128	.145	+40.8
Flaxseed	Bushel	5.16	2.65	2.40	2.82	−45.3
Potatoes	Hundredweight	$2.43	$2.23	$2.21	$2.55	+4.9
Beans, dry edible	do	8.69	7.61	9.21	10.20	+17.4
Hogs	do	21.80	22.20	22.70	29.50	+35.3
All beef cattle	do	20.10	27.20	27.10	33.20	+65.2
Calves	do	22.50	31.50	34.50	43.90	+95.1
Lambs	do	21.90	27.20	26.40	28.70	+31.1
Milkfat, in cream	pound	.705	.689	.700	.694	−1.6
Milk, manufacturing grade	Hundredweight	3.63	4.45	4.70	5.09	+40.2
Turkey, live	Pound	.395	.224	.226	.222	−43.8
Eggs [2]	Dozen	.459	.400	.391	.315	−31.4
Wool	Pound	.469	.418	.355	.371	−20.9

[1] Includes average value of marketing certificate or price support payment.
[2] Average of all eggs sold by farmers, including hatching and sold at retail.

Source: "Crop Values and Agricultural Prices," USDA.

AVERAGE RETAIL PRICES OF DIFFERENT FOOD IN GROCERY STORES

Item	Units	Average 1947–49 (cents)	Average 1969 (cents)	Average 1972 (cents)
Cereals and bakery products:				
Flour, wheat	Pound	9.7	11.6	11.9
Bread, white	do	13.5	23.0	24.7
Rice, short grain	do		18.8	19.6
Dried beans	do	19.9	19.6	24.8
Meats:				
Beef:				
Rib roast	do	67.8	109.3	129.5
Round steak	do	83.8	126.7	147.7
Chuck roast	do	57.1	70.4	82.1
Hamburger	do	50.4	62.4	74.4
Pork:				
Pork chops (center cut)	do	74.5	112.2	124.6
Bacon, sliced	do	73.7	87.8	96.2
Ham, whole	do	66.3	72.8	78.2
Lamb chops	do	69.3	178.3	199.5
Chickens; Fryers, ready to cook	do		42.2	41.4
Dairy products:				
Butter	Pound	79.9	84.6	87.1
Cheese (American process)	½ pound	28.4	47.0	54.3
Milk, fresh (delivered)	½ gallon	41.6	62.9	69.0
Milk, evaporated (canned)	14½ ounces	13.7	17.6	20.0
Eggs	Dozen	70.5	62.1	52.4
Fats and oils:				
Shortening	Pound	41.1	27.5	32.4
Margarine, colored	do		27.8	33.1
Sugar	5 pounds	47.5	62.0	69.5
Index of retail food prices [1]		73.5	108.9	123.5
Index of prices received by farmers [2]		271.0	274.0	319.0
Index of prices received by farmers [1]		107.0	108.0	126.0
Retail cost of market basket of food		896.0	1,176.0	1,244.0
Marketing charges		448.0	696.0	767.0
Farmers received		448.0	480.0	477.0
Percent of consumer's dollar received by farmers (percent)		50.0	41.0	38.0

[1] 1967 equals 100.
[2] 1910–14 equals 100.

Source: "Bureau of Labor Statistics"; "Marketing and Transportation Situation," USDA.

ROSS NATIONAL PRODUCT HAS INCREASED 401.2 PERCENT SINCE 1947 WITH NONFARM GROUPS SHARING SUBSTANTIALLY IN THE INCREASE IN THE NATION'S GROWTH—BUT FARMERS NET INCOME HAS INCREASED BY ONLY 9 PERCENT 1972 OVER 1947

[In billions]

	1947	1965	1967	1968	1969	1970	1972	Percent change 1947–72
Gross national product	232.2	684.9	793.9	864.2	930.3	976.4	1,164.0	+401.2
Farmers' total net income [1]	[2] 17.1	14.0	14.2	14.7	16.8	16.8	18.8	+9.0
Farmers' total gross income	34.0	44.9	49.0	50.9	55.6	57.9	66.1	+94.4
Farmers' production expenses	16.8	30.9	34.8	36.2	38.8	41.1	47.3	+181.5
Interest received by creditors	8.2	38.7	48.0	52.9	59.3	65.8	74.3	+806.1
Dividends received by corporation stockholders	6.5	19.8	21.4	23.6	24.3	24.8	26.6	+309.2
Business and professional income	19.9	42.4	47.3	49.5	50.5	49.9	57.1	+186.9
Rental income of landlords	6.5	19.0	21.1	21.2	22.6	23.3	26.7	+310.8
Average weekly earning of all manufacturing workers [3]	59.92	107.53	114.90	122.51	129.51	133.73	159.08	+165.6

[1] Including Government payments.
[2] Net return of $17,100,000,000 in 1947 is selected as base of comparison because the parity ratio was 100 that year.
[3] Current dollars.

Note: Parity ratio 1972: unadjusted, 74; adjusted to include payments, 80.

Source: Economic Indicators, published by President's Council of Economic Advisers, December 1972.

BALANCE SHEET OF AGRICULTURE, UNITED STATES, JANUARY 1; SELECTED YEARS, 1956–73 [1]

[In billions of dollars]

Item	1956	1960	1963	1966	1967	1968	1969	1970	1971	1972	1973
ASSETS											
Physical assets:											
Real estate	102.9	130.2	143.8	172.5	182.5	193.1	202.6	208.2	214.0	228.6	251.4
Nonreal estate:											
Livestock [2]	10.6	15.2	17.3	17.5	18.9	18.8	20.2	23.4	23.7	27.3	93.2
Machinery and motor vehicles	19.3	22.2	22.7	27.1	28.9	31.4	33.0	34.1	36.6	36.4	
Crops stored on and off farms [3]	8.3	7.7	9.3	9.7	10.0	9.6	10.6	10.9	10.7	11.8	
Household furnishings and equipment	10.5	9.6	9.0	8.6	8.4	9.0	9.6	9.7	9.8	10.3	
Financinal assets:											
Deposits and currency	9.5	9.2	9.2	10.0	10.3	10.9	11.5	11.9	12.4	13.1	26.0
United States Savings Bonds	5.2	4.7	4.4	4.1	3.9	3.8	3.7	3.7	23.7	3.7	
Investments in cooperatives	3.3	4.3	5.3	6.3	6.6	7.0	7.3	7.7	8.1	8.0	
Total [4]	169.6	203.1	221.0	255.8	269.5	283.6	298.5	309.6	319.0	339.2	370.6
CLAIMS											
Liabilities:											
Real estate debt	9.0	12.1	15.2	21.2	23.3	25.5	27.1	28.4	29.5	31.3	33.9
Non-real-estate debt to: Commodity Credit Corporation [5]	1.9	1.2	2.0	1.4	1.2	1.4	2.7	2.7	1.9	2.3	38.1
Other reporting institutions [6]	4.4	6.7	8.5	11.1	12.4	13.7	14.5	15.8	17.4	19.6	
Nonreporting creditors	3.5	4.8	6.0	7.9	8.8	9.8	10.3	11.2	12.3	13.7	
Total liabilities	18.8	24.8	31.7	41.6	45.7	50.4	54.6	58.1	61.1	66.9	72.0
Proprietor's equities	150.8	178.3	189.3	214.2	223.8	233.2	243.9	251.5	257.9	272.3	298.6
Total [4]	169.6	203.1	221.0	255.8	269.5	283.6	298.5	309.6	319.0	339.2	370.6

[1] For 48 States only, 1972 preliminary.
[2] Beginning with 1961, horses and mules are excluded.
[3] Includes all crops held on farms and crops held off farms as security for CCC loans.
[4] Total of rounded data.
[5] Nonrecourse CCC loans secured by crops owned by farmers and included as assets in this balance sheet.
[6] Loans of all operating banks, the production credit associations, and the Farmers Home Administration, and discounts of the Federal intermediate credit bank for agricultural credit corporations and livestock loan companies.

Source: The Balance Sheet of the Farming Sector, 1972; USDA.

SELECTED STATISTICS ON U.S. AGRICULTURE [1]

Item	Unit	1947–49	1950	1954	1960	1964	1968	1969	1970	1971	1972
Total population [2]	Millions	146.6	151.7	162.4	180.7	191.9	220.7	202.7	204.9	207.0	208.8
Index number	Percent of 47–49	100.0	103.0	111.0	123.0	131.0	136.9	138.3	139.8	141.2	142.4
Farm population	Millions	24.8	23.0	19.0	15.6	13.0	10.5	10.3	9.7	9.4	9.0
Percent of total		16.9	15.2	11.8	8.7	6.8	5.2	5.1	4.7	4.6	4.5
Farm output	Percent of 1967	73.0	73.0	79.0	90.0	94.0	102.0	103.0	102.0	111.0	112.5
Persons supplied per farmworker	Number	14.5	15.5	18.1	25.8	33.2	43.4	45.1	47.1	48.2	(3)
Output per man-hour [4]	Percent of 67–100	31.0	35.0	43.0	67.0	83.0	106.0	112.0	113.0	125.0	122.0
Prices received	Percent of 10–14	271.0	258.0	246.0	239.0	237.0	261.0	274.0	280.0	285.0	319.0
Prices paid	Percent of 10–14	250.0	256.0	278.0	300.0	313.0	355.0	373.0	390.0	410.0	433.0
Parity ratio	Percent	108.0	101.0	89.0	80.0	76.0	73.0	74.0	72.0	70.0	74.0
Value of agricultural exports [5]	Billion dollars	3.4	3.4	3.1	4.5	6.1	6.3	5.7	6.7	7.8	8.1
Farm debt [6]	do	9.2	10.7	16.9	23.7	33.0	49.0	51.9	55.4	59.2	64.6
Market basket:											
Retail cost	Dollars	896.0	878.0	939.0	996.0	1,009.0	1,119.0	1,176.0	1,223.0	1,244.0	
Farm value	do	448.0	415.0	405 0	393.0	377.0	441.0	480.0	476.0	477.0	
Marketing margin	do	448.0	463.0	534.0	603.0	632.0	678.0	696.0	747.0	767.0	
Farmers share	Percent	50.0	47.0	43.0	39.0	37.0	39.0	41.0	39.0	38.0	
Farm income: [3]											
Realized gross	Billion dollars	33.5	32.3	33.6	38.1	42.6	50.9	55.6	57.9	60.1	66.4
Production expense	do	17.9	19.4	21.6	26.4	29.5	36.2	38.8	41.0	44.0	47.2
Realized net	do	15.6	12.9	12.0	11.7	13.1	14.7	16.8	16.8	16.1	19.2
Realized net per farm	Dollars	2,682.0	2,277.0	2,503.0	2,962.0	3,802.0	4,809.0	5,654.0	5,374.0	5,581.0	6,797.0
Number of farms	Thousands	5,799.0	5,648.0	4,798.0	3,962.5	3,456.7	3,070.9	2,999.2	2,954.2	2,909.0	2,869.7

[1] Preliminary.
[2] Includes 50 States beginning 1960. Total population July 1 and farm population Apr. 1.
[3] Not available.
[4] Revised.
[5] Fiscal year ending June 30 of year shown.
[6] Outstanding on Jan. 1, excludes CCC loans.

Mr. SPARKMAN. Mr. President, I yield back all of my time.

The PRESIDING OFFICER (Mr. HOLLINGS). All time on this amendment has now expired.

The question is on agreeing to the amendment of the Senator from Connecticut (Mr. RIBICOFF).

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 Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), the Senator from Georgia (Mr. NUNN) and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is 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 Georgia (Mr. NUNN) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY), the Senator from Illinois (Mr. PERCY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 9, nays 78, as follows:

[No. 52 Leg.]

YEAS—9

Case	McIntyre	Ribicoff
Hart	Moss	Weicker
Javits	Pell	Williams

NAYS—78

Abourezk	Eagleton	McGee
Aiken	Eastland	McGovern
Allen	Ervin	Metcalf
Bartlett	Fannin	Montoya
Bayh	Fong	Muskie
Beall	Gravel	Nelson
Bellmon	Griffin	Packwood
Bennett	Gurney	Pearson
Bentsen	Hansen	Proxmire
Bible	Hartke	Randolph
Biden	Haskell	Roth
Brock	Hatfield	Saxbe
Brooke	Hathaway	Schweiker
Burdick	Helms	Scott, Pa.
Byrd, Harry F., Jr.	Hollings	Scott, Va.
Byrd, Robert C.	Hruska	Sparkman
Cannon	Huddleston	Stafford
Chiles	Humphrey	Stevens
Church	Inouye	Stevenson
Clark	Jackson	Taft
Cook	Johnston	Talmadge
Cotton	Kennedy	Thurmond
Curtis	Long	Tower
Dole	Magnuson	Tunney
Domenici	Mathias	Young
Dominick	McClellan	
	McClure	

NOT VOTING—13

Baker	Hughes	Percy
Buckley	Mansfield	Stennis
Cranston	Mondale	Symington
Fulbright	Nunn	
Goldwater	Pastore	

So Mr. RIBICOFF's amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 48

Mr. MOSS. Mr. President, I call up my amendment No. 48.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk proceeded to read the amendment.

Mr. MOSS. 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:

At the end of the bill, add the following new section:

NINETY-DAY RETAIL FOOD 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."

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

Mr. MOSS. I yield.

Mr. ROBERT C. BYRD. Mr. President, I have discussed this with the distinguished Senator. I ask unanimous consent that time on this amendment be limited to 20 minutes, to be equally divided as heretofore agreed to.

Mr. MOSS. Mr. President, I had indicated that I would do my best to hold it down. I do not like to be confined. I will try to do it in that length of time. However, I recognize that there might be discussion on the other side that will prolong this matter a little.

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

Mr. MOSS. I yield.

Mr SPARKMAN I will make up the time it takes on this yielding.

Mr. MOSS. All right, I will withdraw my objection.

Mr. SPARKMAN. On this side, we certainly will stay within the time limit. If the Senator needs a little time beyond that, I will be glad to yield him brief time from the bill.

Mr. MOSS. I thank the Senator.

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

Mr. MOSS. Mr. President, I ask unanimous consent that Mr. Richard Sorenson and Carl Brathwaite of my staff be allowed the privilege of the floor during the debate and vote on this amendment.

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

Mr. ROSS. Mr. President, I ask unanimous consent that the name of the Senator from Indiana (Mr. BAYH) be added as a cosponsor of my amendment.

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

Mr. MOSS. Mr. President, the Senate has just debated and voted upon the amendment of the Senator from Connecticut (Mr. RIBICOFF), and in some sense it might be thought this amendment is similar to his. It is, however, quite different. The amendment on which the Senate just acted went back to the raw source of the production of raw materials, and it was obviously thought by the Senate that this could not be controlled. My amendment does not reach back that far.

The amendment I have offered would freeze the retail food prices for a period of 90 days. We are talking only about retail food prices. There are two major considerations that make such a temporary freeze compelling at this time, and they have been discussed. The administration has confessed its helplessness to control food prices for the next several months.

The President said that he expects food prices to continue to rise at least until the second half of the year, and his grim prospectus has been echoed by Secretary Butz and Mr. Stein of the Council of Economic Advisers. We have been told that food prices will not level off until the administration's efforts to increase the supply of farm products has created the desired effect.

Second, while food prices continue to soar in the months ahead, union workers will be sitting down with management to negotiate new contracts. Contracts covering 4.7 million workers will expire this year. With new contracts due in such vital areas as railroads, electric power, automobiles, trucking, and postal service, the next several months will be one of the most significant periods of collective bargaining in the history of the Nation.

There is an obvious danger that increased prices will be built into these new wage agreements. In fact, if the cost of living continues to rise at its current rate, we can hardly expect the unions to exercise restraint in their wage demands. Such an expectation would defy commonsense as well as all sense of common fairness.

The administration's waiting game on food prices is clearly a formula for perpetuating a dangerous inflationary spiral. It may be true that in the long run it will be possible to increase food production until the supply equals demand. But in this instance, the long run is much too long a time. At this critical juncture, we simply cannot afford any further increases in the price of food.

I believe it has become apparent that no action short of a freeze will bring food prices under control. The phase III regulations now in effect contain stronger controls on food than on other commodities, but wholesalers and retailers have been permitted to pass on price increases originating at the farm level. As a result, retail food prices rose by 2.3 percent in January alone. The more stringent phase II controls were also far less successful for food than for other commodities. In the last 6 months of 1972, retail food prices rose by an annual rate of 6.1 percent, while the prices of other commodities rose by 2.5 percent. Food prices were restrained successfully, however, under the phase I freeze.

From August to November, 1971, food prices were held down to an annual rate of increase of 1.7 percent.

I also believe that there are sound reasons for imposing a freeze that is temporary and that will apply only to prices at the retail level. If the current shortage in supply is indeed only temporary, we will require a freeze on prices only until supply increases to a level where market forces will act as a restraint on prices. In addition, any attempt to freeze food prices for a longer period may be self-defeating. We would run the risk that producers would cut back the supply of some commodities, creating serious food shortages.

The temporary freeze should be confined to retail prices because it could be administered most effectively at that level. It would be an enormous administrative task to monitor farm auctions throughout the country where the price of hogs, for example, changes from day to day. If we were thinking in terms of a longer period for controls, it might be desirable to find a strategic point in the distribution chain to intervene, but for a three month freeze such an undertaking does not appear to be necessary. In the past month, wholesale food prices have begun to plateau out, and a freeze on retail prices should provide sufficient backward pressure to stabilize prices at other levels.

A further advantage of a freeze at the retail level is that consumers would be able to significantly assist enforcement. By now, every housewife in the country is acutely aware of any movement in retail prices at the supermarket. Because of this consumer awareness, I am sure that no violations of the freeze would go unreported.

Mr. President, I am aware that even a 90-day freeze on retail prices might lead to some difficulties. We may find that some food products will be taken off the shelves for a brief period. I believe, however, that we will be able to live with whatever problems may result. As I pointed out in my statement yesterday in introducing the amendment, the short-term difficulties resulting from a freeze are vastly outweighed by the long-term necessity of bringing inflation under con-

trol. 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.

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

Mr. MOSS. I yield such time to the Senator as I have available.

The PRESIDING OFFICER. The Senator from Indiana is recognized.

Mr. BAYH. Mr. President, I am privileged to have the chance to join with my friend, the distinguished Senator from Utah as a sponsor of this amendment to place a 90-day freeze on retail food prices. I will not repeat the very astute assessment that the Senator has just made differentiating the previous amendment, well-intentioned as it was, from the present amendment, which I joined him in sponsoring.

The problem of increased food costs hardly needs to be articulated to any of us who have even the remotest communication with our constituents.

In the last few weeks I have had a chance to visit with housewives in Indiana and to get a pretty good idea of the great concern that the average Hoosier feels. I am sure this feeling is no more or less intense in any of the other States. However, the hard fact is that since the first of the year we have had a larger increase in the cost of food, groceries, than in any similar period in the last 20 years. This is not just normal attrition in take-home pay; it has gotten to the point that it is out of control and that is why I think this amendment is absolutely indispensable. We need to move now and we need to move quickly and emphatically. There have been several efforts made since phase I in 1971. There is no need to go into a great discussion about the relative merits of any of these phases, phase 1, phase II, phase III. The net effect so far as the market basket is concerned is that they have all failed.

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

Mr. BAYH. Mr. President, will the Senator yield to me for several more minutes.

Mr. MOSS. Mr. President, do I have any time remaining?

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

Does the Senator from Alabama yield time on the bill?

Mr. BAYH. Will the Senator yield to me for 3 minutes?

Mr. SPARKMAN. I yield 3 minutes on the bill.

Mr. BAYH. Mr. President, I watched the 7 o'clock news before coming to the Chamber, and the latest suggestion that has been made by the experts at the White House is that we should eat less, that Americans ought to eat less. That was actually proposed to be in the best interests of the country, that the real way to control inflation would be to eat less. That is the *n*th degree of ridiculousness.

The proposal before the Senate is no panacea, but it would provide immediate action, now. It would give us a chance to consider a longer range solution which will have to be enacted if we are to get on top of the increase in the price of food.

It is important to recognize that the increase in the cost of food is not a respecter or income levels. Any wage earner has to be aware of the fact that his paycheck this week is buying fewer groceries. Whether it is filet mignon or bologna, caviar or pickles, that paycheck is buying less today than it was last week and the week before, and unless we do something it will buy less next week.

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

Mr. SPARKMAN. I yield one minute to the Senator from Washington.

Mr. JACKSON. Mr. President, I want to ask the distinguished Senator from Utah how he would handle the retail situation in which the store owner faces a rise in prices in connection with his source of supply?

Mr. MOSS. I can answer that. I think it might be possible, in the 90-day period, that, before the 90 days have run, some of these supplies may begin to dwindle. I acknowledged in my statement there will be examples where we find some foods are becoming scarce. But the administration of this proposal is simple. It simply says that, as of the 1st day of March, the prices that were posted for the preceding 2 months will be maintained for 90 days——

Mr. JACKSON. What would we do about fresh fruits and vegetables, which fluctuate on a very wide seasonal basis? It would be conceivable, and I think probable, that the store operator would have to sell at a loss. Is not the thing to do here to have a freeze right across the board? I hope the Senator from Wisconsin will offer his amendment for a straight-across-the-board freeze. I will support it. But how does one face a retailer when he comes up and says, "Look, you put a freeze upon me, and did not put a freeze upon the things I have to buy."

How does the Senator handle that?

Mr. MOSS. The retailer has to sell everything he has in stock, and since every retailer is under the same price freeze——

Mr. JACKSON. But how would the Senator handle fresh fruits and vegetables? These are products that really gyrate. The price of those products would be frozen for the next 90 days, and in the next 90 days the cost may take a big jump. The Senator says he has to sell them at the March 1st price.

Mr. MOSS. It would be no higher than the price for the 2 months immediately preceding, and if he did not sell any in that time, then sometime when he sold those products.

This is the ideal time to impose a freeze on retail sales because it appears now wholesale prices have leveled out and are at a plateau. If they have, the retailer can take the freeze.

But as I pointed out—and my colleague from Indiana alluded to it—we are going to go into wage negotiations in which contracts for 4,700,000 workers are going to have to be negotiated this summer. If prices are still going up at that time, there is no way we are going to convince the labor unions to settle for a modest increase.

Mr. JACKSON. But is not the answer to have a freeze top to bottom? That is what I am suggesting. I cannot for the life of me understand——

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

Mr. JACKSON. Will the Senator yield me 1 minute, or a half minute?

Mr. SPARKMAN. I yield half a minute to the Senator.

Mr. JACKSON. For the life of me I cannot understand how to answer the constituent who wrote to me—and I am talking about the little store operator—"You have frozen everything as of this time. The cost of fruits and vegetables is skyrocketing. Yet you are asking me to sell at a loss." How would the Senator handle that?

Mr. MOSS. I would not expect him to sell at a loss. He would not have vegetables in the bin if he cannot buy any.

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

The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I think the Senator from Washington has raised some very pertinent points. I would add to the products he named, poultry and eggs. Eggs are obtained only when chickens lay them, and they do not always lay them with the same regularity. Not only that, but I am thinking of the little neighborhood grocery store where I trade. He cannot carry a large stock. He cannot get a stock there big enough so that he can just sit back and say, "I am all fixed. I do not have to be concerned about anything." He will buy only very limited amounts of eggs and of dressed poultry and of fruits and vegetables, such as the Senator from Washington mentioned, at a time.

Sometimes the retail industry is referred to as the food chains. Get away from the idea that this matter hits just the big food chains. It hits the neighborhood grocery store. It hits all of the small businesses that have to depend upon the products as they can get them and carry them in stock. They cannot afford to carry more than a small stock at a time. This proposal would ruin literally thousands of small grocery stores and small retail stores throughout this country.

I just cannot see the logic—the practicality—of a freeze across the board. I certainly think that the Cost of Living Council has the right to establish guidelines by which these products can be checked and controlled, but a blanket freeze such as this, even for the short time of 90 days—90 days might be just the right amount of time required to break these small grocery stores throughout the country, and perhaps retail establishments generally——

Mr. MOSS. Mr. President, will the Senator yield for a question?

Mr. SPARKMAN. I yield.

Mr. MOSS. Does the Senator know how much the price of food went up in 1972?

Mr. SPARKMAN. Yes, I know in a general way, but I know that under phase III the Cost of Living Council is supposed to keep up with these matters, to establish guidelines and to work out a method of bringing them under control I think that is the logical way to do it, instead of coming in here with a blanket provision, such as this, that hits every little store in the country. I think it would be disastrous for the small stores of this country.

Mr. MOSS. Mr. President, if the Senator will yield, he says the Cost of Living Council ought to do this. The fact is they have not done it. In January alone the cost of food went up another 3 percent. It has not been done, and we simply have to take some stand legislatively right now and say there is a freeze.

Mr. SPARKMAN. Let me say phase III was not functioning on the first of January. Not only that; it was some time after that that Mr. Dunlop was appointed. He has not gotten his full credentials yet. They are waiting for this legislation. But I am confident he will do what needs to be done.

Mr. President, I am ready to yield back my time, if the Senator from Utah will yield back his time.

The PRESIDING OFFICER. The Senator from Utah has used his time.

Mr. SPARKMAN. I am willing to yield back my time.

Mr. McGOVERN. Mr. President, I support the Moss amendment to freeze temporarily retail food prices. Farmers are being blamed unfairly for the increase in the price of food. Yet the long-term increase in retail food prices has not been largely due to increased farm prices; the farmer's share of the food dollar 25 years ago was 50 cents, compared to last year's 39 cents and last month's 42 cents.

While farmers' net income rose only 9 percent in the last 25 years, farmers' gross production expenses increased 181.5 percent. Interest earnings of creditors increased 806.1 percent; dividends received by corporation stockholders increased 309.2 percent; business and professional income went up 186.1 percent; average weekly earnings of manufacturing workers went up 165.6 percent—Source: Farmers Union report adapted from December 1972 report of President's Council of Economic Advisers.

We should examine the rapid increase in retail food prices in light of the rather meager 9-percent increase in farmers' net income, to make it clear that while the farmer has had some justified price increases—really, just a catch up in cost of living for the farmer—the spread between the farm price and the retail price needs much more careful examination.

The Library of Congress recently prepared a study for the Senate Midwest Democratic Caucus which pointed out that, from 1953 to 1973, the farm value of a pound of choice beef increased from 50 cents to 82 cents, while the retail price went up from 68 cents to $1.22; the spread increased from 18 cents a pound to 42 cents a pound.

From 1953 to 1973, the farm value of a half gallon of milk went up from 22 cents to 31 cents; yet the retail price per half gallon of milk increased from 42 cents to 61 cents; the spread in this case increased from 20 cents to 30 cents.

Also instructive is the report of Business Week magazine on March 10, 1973, detailing the rapid increase in profits for American business during the administration's economic control program, which was inserted into the RECORD yesterday by Senator HUMPHREY.

Food processing and retailing industries, as a class, did quite well. The food industry composite showed an increase in after-tax profits last year of 9 percent from the previous year, and an increase of 15 percent from the last quarter of the previous year.

Some individual food corporations did even better, as the Business Week tables show: Allied Mills increased its profits from 1971 to 1972 by 302 percent; Iowa Beef Processors increased profits by 166 percent, and Kraftco was up by 100.6 percent; United Brands was up 111 percent. There were some which saw profits fall, to be sure, but the food industry as a whole was allowed to increase its profits sharply during phase II.

A 90-day freeze on retail food prices would be a temporary remedy. It would not, as I understand it, affect farm income, which only now is beginning to catch up to the increased income of many other segments of the population.

There is no intent in this amendment to control farm prices—only retail prices which have been allowed to increase beyond justifiable levels.

CONTROLLING FOOD PRICE INCREASES

Mr. MUSKIE. Mr. President, the time has clearly come for Government action to rescue the American family from their discouraging weekly task of shopping for food.

In the last 14 months the retail cost of a market basket of food produced on American farms has risen two-thirds what it rose in the preceding 10-year period.

Wholesale prices for farm products and processed foods have increased at an annual rate of 19.1 percent during the past 12 months; 30.8 percent during the last 6 months; 56 percent during the last 3 months; and 38.4 percent during February alone.

And there was more discouraging news today. The Cost of Living Council said the best we can hope for is that food price increases will taper off toward the end of the year, perhaps becoming steady by December.

The major component of food price increases in the last year has been meat, particularly beef and pork. For example, in 1972, all foods other than beef and pork rose 2.7 percent in price, while beef rose 9.4 percent last year and pork rose 15.8 percent.

No wonder housewives around the country are organizing meat boycotts. No wonder labor unions are threatening that they may be unable or unwilling to hold down their wage increase demands.

In the face of these protests we see a Presidential economic adviser saying "let them eat cheese."

We have a chance to act today, Mr. President. I support the amendment of the Senator from Utah (Mr. Moss) to give the American family a 90-day reprieve from rising food prices.

There are dangers inherent in any Government attempt to control prices, Mr. President. In the case of food prices, mandatory controls might cause many food products to disappear from the shelves. Food processors might engage in false labeling, trying to pass off hamburger as ground round and sirloin as filet mignon. We might be trading current complaints about food prices for new outrages.

The amendment offered by our distinguished colleague from Utah gives us the opportunity to take immediate action by freezing retail food prices. But by limiting the freeze to 90 days and installing the freeze at the retail level, we do not commit ourselves to a politically appealing but potentially damaging courses of action which would create more problems than they solve.

Our action today will show the Nation that whether or not the President has the will to use his much-touted stick in the closet, the Congress can and will act to control outrageous food price increases.

Mr. MOSS. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment offered by the Senator from Utah for himself and the Senator from Indiana. 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 Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON), the Senator from Louisiana (Mr. LONG), and the Senator from Arkansas (Mr. FULBRIGHT), are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY), the Senator from Illinois (Mr. PERCY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 21, nays 66, as follows:

[No. 53 Leg.]

YEAS—21

Abourezk	Hathaway	Muskie
Allen	Hollings	Pell
Bayh	McGee	Ribicoff
Biden	McGovern	Roth
Case	McIntyre	Schweiker
Hart	Metcalf	Weicker
Hartke	Moss	Williams

NAYS—66

Aiken	Brock	Chiles
Bartlett	Brooke	Church
Beall	Burdick	Clark
Bellmon	Byrd,	Cook
Bennett	Harry F., Jr.	Cotton
Bentsen	Byrd, Robert C.	Curtis
Bible	Cannon	Dole

Domenici	Humphrey	Randolph
Dominick	Inouye	Saxbe
Eagleton	Jackson	Scott, Pa.
Eastland	Javits	Scott, Va.
Ervin	Johnston	Sparkman
Fannin	Kennedy	Stafford
Fong	Magnuson	Stevens
Gravel	Mathias	Stevenson
Griffin	McClellan	Taft
Gurney	McClure	Talmadge
Hansen	Montoya	Thurmond
Haskell	Nelson	Tower
Hatfield	Nunn	Tunney
Helms	Packwood	Young
Hruska	Pearson	
Huddleston	Proxmire	

NOT VOTING—13

Baker	Hughes	Percy
Buckley	Long	Stennis
Cranston	Mansfield	Symington
Fulbright	Mondale	
Goldwater	Pastore	

So the Moss-Bayh amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. TOWER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. HATHAWAY. Mr. President, I call up an amendment which I have at the desk, and ask for its immediate consideration.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

At the bottom of page 4, add the following:

"(3) Immediately upon enactment of this subsection, the President or his delegate shall issue regulations defining for the purpose of this subsection what information or data are proprietary in nature and therefore excludable under paragraph (2), except that such regulations may not define as excludable any information or data which cannot currently be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15(d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a substantial product as defined in paragraph (1)."

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

Mr. HATHAWAY. I yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, I have discussed this with the able author of the amendment and the manager of the bill. I ask unanimous consent that time on this amendment be limited to 10 minutes under the control of the author of the amendment and 5 minutes under the control of those in opposition.

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

Mr. HATHAWAY. Mr. President, yesterday committee amendment to the Economic Stabilization Act No. 6, which was the amendment I offered in committee, was amended by an amendment offered by the Senator from Texas (Mr. TOWER) to provide that any information or data reported to the Cost of Living Council which was proprietary in nature, relating to the amount or sources of its income, profits, and prices did not have to be revealed to the public under the triggering mechanism provided for in section 6.

To go back a step, section 6 originally required that tier 1 corporations, those making $250 million a year or more, when the price of any substantial product—and substantial is defined in section 6 to be 5 percent or more of the annual revenue of that particular corporation—if the price of such a substantial product was over the 1.5 percent guideline, that would automatically trigger the corporation into revealing to the public prices, costs, and profits now reported to Cost of Living Council.

This has been restricted by the amendment referred to before, that was offered by the Senator from Texas, so that a corporation would not have to reveal to the public, when this triggering mechanism occurred, any information that was "proprietary in nature."

The purpose of my amendment is simply to clarify what information shall be considered to be "proprietary in nature."

Obviously, if all information of these corporations was considered to be proprietary, then the whole effect of section 6 goes out the window. The purpose of section 6, of course, is to permit public disclosure, so that the general public will have access to information, so that when the price of a substantial product goes over the 1.5 percent level, the general public can complain and have a foundation upon which to base its complaint, namely, the information the corporations would have to reveal with respect to their prices, costs, and profits.

The definition of "proprietary in nature" which is called for in the amendment before us allows the President to issue regulations that define, for the purpose of this subsection, what "proprietary in nature" actually means. The only restriction being placed on the President's discretion with respect to such regulations is that such regulations shall not be any more confining than what the SEC currently calls for under sections 13 and 15 of the SEC Act and the regulations which promulgated thereunder which require the filing of form 10–K, by all publicly owned corporations. So the nature of the proprietary information would be so limited: If the SEC did not require such information to be filed, considering it to be proprietary, then that would hold here also.

This, of course, applies to single product companies. Under the SEC law and under the regulations requiring this disclosure, a single product company has to reveal its costs and its income with respect to the product that it is making. Large corporations also, or conglomerates, I should say, producing a variety of goods, also have to file. But they can file in such a way that it is very difficult, even impossible, for the public to determine just what the costs and profits are with respect to the individual products that the company is making.

For example, American Motors Co.—which is a billion-dollar company, by the way, and which would be required to report under this act—is a single-product company, because it is making automobiles only. It files on form 10–K all of the information that is required by that form, which includes its profits and its costs. General Motors, on the other hand, a $20 billion corporation making a large variety of items, does not have to disclose, for example, what the costs are, going into the Chevrolet or the Cadillac, and it does not even have to differentiate between the costs going into automobiles and the costs going into trucks, because under the SEC regulations only that amount of product that accounts for 10 percent of the total product would be considered as a single product and would require that filing. So this amendment would, in effect, put American Motors and General Motors on the same basis.

The same thing is true with respect to the Maytag Co., which makes home laundry equipment. Maytag is competing with General Electric and General Motors. But Maytag has to reveal all its costs and profits to the SEC, whereas its giant competitors, operating on a conglomerate basis, do not have to do likewise with respect to laundry equipment.

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

Mr. HATHAWAY. I yield to the Senator from Louisiana.

Mr. JOHNSTON. Is it true that no new forms are required by the amendment, but rather simply the making public of forms which would already be on file with the Cost of Living Council?

Mr. HATHAWAY. That is absolutely correct. No new forms would be required.

Mr. JOHNSTON. No additional redtape would be involved?

Mr. HATHAWAY. No additional redtape whatsover. And, of course, there are instances where the Cost of Living form, which is CLC–2, calls for cost and sales information, and differentiates between the costs of imported and domestic materials. That is not required by the SEC, and therefore the companies would not have to disclose that particular information to the public. So there are areas where the use of the SEC requirement would be quite restrictive.

I do not see why anyone is really objecting to this disclosure. As I have just mentioned, single product companies have to make the disclosure. We have, under section 6 of the Federal Trade Commission Act, given discretion to the Federal Trade Commission to go ahead and investigate every company in the United States with the exception of common carriers and public utilities, and the Federal Trade Commission has the discretion to reveal to the public what information it wants to reveal to the public, with the two exceptions of customer lists and trade secrets.

So really this amendment is much more restrictive than what the Federal Trade Commission, empowered by Congress, can do right now. What the amendment simply does is to require these large corporations to reveal their costs, profits, and prices to the public just as smaller single-product companies already have to do through the SEC.

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

Mr. HATHAWAY. I yield to the chairman of the committee.

Mr. SPARKMAN. Does the Senator's amendment take away any part of the Tower Amendment to the Senator's

amendment that was agreed to yesterday?

Mr. HATHAWAY. No, it does not take away anything that the Tower amendment provides. It simply defines what "proprietary" in the Tower amendment means; so it may take away what was intended by the Tower amendment, but not spelled out specifically in the Tower amendment.

Mr. SPARKMAN. But the Tower amendment was to protect the proprietary point?

Mr. HATHAWAY. That is correct.

Mr. SPARKMAN. The Senator's amendment does not change that, but it simply provides that the President shall define what is proprietary?

Mr. HATHAWAY. That is correct.

Mr. SPARKMAN. The Senator says also that nothing can be required to be divulged beyond what is available to the public in the Securities and Exchange Commission?

Mr. HATHAWAY. That is correct, with respect to single product companies.

Mr. SPARKMAN. I thank the Senator.

Mr. HATHAWAY. Mr. President, I reserve the balance of my time.

Mr. SPARKMAN. Mr. President, I yield my time to the Senator from Texas.

Mr. TOWER. Mr. President, the objections to the original Hathaway amendment which were reflected in my amendment to exempt proprietary information from the scope of that amendment still apply to the revised public disclosure amendment. The effect of this amendment would be to nullify the action of the Senate yesterday in exempting proprietary information from the scope of the amendment.

It would effectively require disclosure of the same information which the Senate declined to require to be published when it adopted the Tower amendment yesterday. It would be incompatible with existing Federal law on confidentiality. This amendment would represent a major change in Federal policy regarding confidentiality of information, and not a single day, or even hour, of hearing was held on this subject before our committee, or, so far as I know, before any committee. We cannot act in such an uninformed manner on such an important subject.

I think, in that we are not totally informed on this matter, we should not attempt to redefine the laws relating to confidentiality and just undo what we did yesterday; having marched up the hill, we are asked to march down again.

I urge that the amendment of the Senator from Maine be rejected.

Mr. HATHAWAY. Will the Senator from Texas yield to me?

Mr. TOWER. I yield.

Mr. HATHAWAY. I do not know of any other definition of proprietary information. This is a problem we had in committee when the Senator from Wisconsin asked that proprietary information be excluded, and I was not willing to accept that amendment because I did not know of any definition of proprietary information.

This is simply an attempt to so define it. I do not recall the Senator from Texas, when he spoke on his amendment yesterday, defining what he thought was proprietary information.

Mr. President, in conclusion, I ask unanimous consent to have printed in the RECORD the following material, which bears on this subject: Section 13 of the Securities Exchange Act of 1934; SEC Form 10–K; an excerpt from the hearing by the Small Business subcommittee on Monopoly, of November 12, 1971, on Corporate Secrecy: Overviews; and item 1(c)(1) from 10–K Report of General Motors.

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

PERIODICAL AND OTHER REPORTS*

SEC. 13. (a) Every issuer of a security registered pursuant to section 12 of this title shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate for the proper protection of investors and to insure fair dealing in the security—

(1) such information and documents (and such copies thereof) as the Commission shall require to keep reasonably current the information and documents required to be included in or filed with an application or registration statement filed pursuant to section 12, except that the Commission may not require the filing of any material contract wholly executed before July 1, 1962.

(2) such annual reports (and such copies thereof), certified if required by the rules and regulations of the Commission by independent public accountants, and such quarterly reports (and such copies thereof), as the Commission may prescribe.

Every issuer of a security registered on a national securities exchange shall also file a duplicate original of such information, documents, and reports with the exchange.

(b) The Commission may prescribe, in regard to reports made pursuant to this title, the form or forms in which the required information shall be set forth, the items or details to be shown in the balance sheet and the earning statement, and the methods to be followed in the preparation of reports, in the appraisal or valuation of assets and liabilities, in the determination of depreciation and depletion, in the differentiation of recurring and nonrecurring income in the differentiation of investment and operating income, and in the preparation, where the Commission deems it necessary or desirable, of separate and/or consolidated balance sheets or income accounts of any person directly or indirectly controlling or controlled by the issuer, or any person under direct or indirect common control with the issuer; but in the case of the reports of any person whose methods of accounting are prescribed under the provisions of any law of the United States, or any rule or regulation thereunder, the rules and regulations of the Commission with respect to reports shall not be inconsistent with the requirements imposed by such law or rule or regulation in respect of the same subject matter, and, in the case of carriers subject to the provisions of section 20 of the Interstate Commerce Act, as amended, or carriers required pursuant to any other Act of Congress to make reports of the same general character as those required under such section 20, shall permit such carriers to file with the Commission and the exchange duplicate copies of the reports and other documents filed with the Interstate Commerce Commission, or with the governmental authority administering such other Act of Congress, in lieu of the reports, information and documents required under this section and section 12 in respect of the same subject matter.

(c) If in the judgment of the Commission any report required under subsection (a) is inapplicable to any specified class or classes of issuers, the Commission shall require in lieu thereof the submission of such reports of comparable character as it may deem applicable to such class or classes of issuers.

(d)(1) Any person who, after acquiring directly or indirectly the beneficial ownership of any equity security of a class which is registered pursuant to section 12 of this title, or any equity security of an insurance company which would have been required to be so registered except for the exemption contained in section 12(g)(2)(G) of this title, or any equity security issued by a closed-end investment company registered under the Investment Company Act of 1940, is directly or indirectly the beneficial owner of more than 5 per centum of such class shall, within ten days after such acquisition, send to the issuer of the security at its principal executive office, by registered or certified mail, send to each exchange where the security is traded, and file with the Commission, a statement containing such of the following information, and such additional information, as the Commission may by rules and regulations prescribe as necessary or appropriate in the public interest or for the protection of investors—

(A) the background and identity of all persons by whom or on whose behalf the purchases have been or are to be effected;

(B) the source and amount of the funds or other consideration used or to be used in making the purchases, and if any part of the purchase price or proposed purchase price is represented or is to be represented by funds or other consideration borrowed or otherwise obtained for the purpose of acquiring, holding, or trading such security, a description of the transaction and the names of the parties thereto, except that where a source of funds is a loan made in the ordinary course of business by a bank, as defined in section 3(a)(6) of this title, if the person filing such statement so requests, the name of the bank shall not be made available to the public;

(C) if the purpose of the purchases or prospective purchases is to acquire control of the business of the issuer of the securities, any plans or proposals which such persons may have to liquidate such issuer, to sell its assets to or merge it with any other persons, or to make any other major change in its business or corporate structure;

(D) the number of shares of such security which are beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly, by (i) such person, and (ii) by each associate of such person, giving the name and address of each such associate; and

(E) information as to any contracts, arrangements, or understandings with any person with respect to any securities of the issuer, including but not limited to transfer of any of the securities, joint ventures, loan or option arrangements, puts or calls, guaranties of loans, guaranties against loss or guaranties of profits, division of losses or profits, or the giving or withholding of proxies, naming the persons with whom such contracts, arrangements, or understandings have been entered into, and giving the details thereof.

(2) If any material change occurs in the facts set forth in the statements to the issuer and the exchange, and in the statement filed with the Commission, an amendment shall be transmitted to the issuer and the exchange and shall be filed with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors.

(3) When two or more persons act as a partnership, limited partnership, syndicate, or other group for the purpose of acquiring,

* 15 U.S.C. 78m.

holding, or disposing of securities of an issuer, such syndicate or group shall be deemed a "person" for the purposes of this subsection.

(4) In determining, for purposes of this subsection, any percentage of a class of any security, such class shall be deemed to consist of the amount of the outstanding securities of such class, exclusive of any securities of such class held by or for the account of the issuer or a subsidiary of the issuer.

(5) The Commission, by rule or regulation or by order, may permit any person to file in lieu of the statement required by paragraph (1) of this subsection or the rules and regulations thereunder, a notice stating the name of such person, the number of shares of any equity securities subject to paragraph (1) which are owned by him, the date of their acquisition, and such other information as the Commission may specify, if it appears to the Commission that such securities were acquired by such person in the ordinary course of his business and were not acquired for the purpose of and do not have the effect of changing or influencing the control of the issuer nor in connection with or as a participant in any transaction having such purpose or effect.

(6) The provisions of this subsection shall not apply to—

(A) any acquisition or offer to acquire securities made or proposed to be made by means of a registration statement under the Securities Act of 1933;

(B) any acquisition of the beneficial ownership of a security which, together with all other acquisitions by the same person of securities of the same class during the preceding twelve months, does not exceed 2 per centum of that class;

(C) any acquisition of an equity security by the issuer of such security;

(D) any acquisition or proposed acquisition of a security which the Commission, by rules or regulations or by order, shall exempt from the provisions of this subsection as not entered into for the purpose of, and not having the effect of, changing or influencing the control of the issuer or otherwise as not comprehended within the purposes of this subsection.

(e)(1) It shall be unlawful for an issuer which has a class of equity securities registered pursuant to section 12 of this title, or which is a closed-end investment company registered under the Investment Company Act of 1940, to purchase any equity security issued by it if such purchase is in contravention of such rules and regulations as the Commission, in the public interest or for the protection of investors, may adopt (A) to define acts and practices which are fraudulent, deceptive, or manipulative, and (B) to prescribe means reasonably designed to prevent such acts and practices. Such rules and regulations may require such issuer to provide holders of equity securities of such class with such information relating to the reasons for such purchase, the source of funds, the number of shares to be purchased, the price to be paid for such securities, the method of purchase, and such additional information, as the Commission deems necessary or appropriate in the public interest or for the protection of investors, or which the Commisison deems to be material to a determination whether such security should be sold.

(2) For the purpose of this subsection, a purchase by or for the issuer or any person controlling, controlled by, or under common control with the issuer, or a purchase subject to control of the issuer or any such person, shall be deemed to be a purchase by the issuer. The Commission shall have power to make rules and regulations implementing this paragraph in the public interest and for the protection of investors, including exemptive rules and regulations covering situations in which the Commission deems it unnecessary or inappropriate that a purchase of the type described in this paragraph shall be deemed to be a purchase by the issuer for purposes of some or all of the provisions of paragraph (1) of this subsection.

OVER-THE-COUNTER MARKETS*

SEC. 15.(a) Issuer which has filed a registration statement containing an undertaking which is or becomes operative under this subsection as in effect prior to the date of enactment of the Securities Acts Amendments of 1964, and each issuer which shall after such date file a registration statement which has become effective pursuant to the Securities Act of 1933, as amended, shall file with the Commission, in accordance with such rules and regulations as the Commission may prescribe as necessary or appropriate in the public interest or for the protection of investors, such supplementary and periodic information, documents, and reports as may be required pursuant to section 13 of this title in respect of a security registered pursuant to section 12 of this title. The duty to file under this subsection shall be automatically suspended if and so long as any issue of securities of such issuer is registered pursuant to section 12 of this title. The duty to file under this subsection shall also be automatically suspended as to any fiscal year, other than the fiscal year within which such registration statement became effective, if, at the beginning of such fiscal year, the securities of each class to which the registration statement relates are held of record by less than three hundred persons. For the purposes of this subsection, the term "class" shall be construed to include all securities of an issuer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges. Nothing in this subsection shall apply to securities issued by a foreign government or political subdivision thereof.

FORM 10–K—ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

GENERAL INSTRUCTIONS

A. Rule as to use of form 10-k

(a) Form 10–K shall be used for annual reports pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for which no other form is authorized or prescribed.

(b) Reports on this form shall be filed within 90 days after the end of the fiscal year covered by the report. However, all schedules required by Regulation S–X may, at the option of the registrant, be filed as an amendment to the report not later than 120 days after the end of the fiscal year covered by the report. Such amendment shall be filed under cover of Form 8.

B. Application of general rules and regulations

(a) The General Rules and Regulations under the Act contain certain general requirements which are applicable to reports on any form. These general requirements should be carefully read and observed in the preparation and filing of reports on this form.

(b) Particular attention is directed to Regulation 12B which contains general requirements regarding matters such as the kind and size of paper to be used, the legibility of the report, the information to be given whenever the title of securities is required to be stated, and the filing of the report. The definitions contained in Rule 12b–2 should be especially noted. See also Regulations 13A and 15D.

C. Preparation of report

(a) This form is not to be used as a blank form to be filled in, but only as a guide in the preparation of the report on paper meeting the requirements of Rule 12b–12. The report shall contain the item numbers and captions of all items but the text of such items may be omitted. The answers to the items shall be prepared in the manner specified in Rule 12b–13.

(b) Except where information is required to be given for the fiscal year or as of a specified date, it shall be given as of the latest practicable date.

(c) Attention is directed to Rule 12b–20, which states: "In addition to the information expressly required to be included in a statement or report, there shall be added such further material information, if any, as may be necessary to make the required statements, in the light of the circumstances under which they are made, not misleading."

D. Signature and filing of report

Three complete copies of the report, including financial statements, exhibits and all other papers and documents filed as a part thereof, and five additional copies which need not include exhibits, shall be filed with the Commission. At least one complete copy of the report, including financial statements, exhibits and all other papers and documents filed as a part thereof, shall be filed with each exchange on which any class of securities of the registrant is registered. At least one complete copy of the report filed with the Commission and one such copy filed with each exchange shall be manually signed. Copies not manually signed shall bear typed or printed signatures.

E. Disclosure with respect to foreign subsidiaries

Information required by any item or other requirement of this form with respect to any foreign subsidiary may be omitted to the extent that the required disclosure would be detrimental to the registrant. However, financial statements, otherwise required shall not be omitted pursuant to this instruction. Where information is omitted pursuant to this instruction, a statement shall be made that such information has been omitted and the names of the subsidiaries involved shall be separately furnished to the Commission. The Commission may, in its discretion, call for justification that the required disclosurre would be detrimental.

F. Incorporation of certain information by reference

Attention is directed to Rule 12b–23 which provides for the incorporation by reference of information contained in certain documents in answer or partial answer to any item of a report.

G. Information as to employee stock purchase, savings and similar plans

Attention is directed to Rule 15d–21 which provides that separate annual and other reports need not be filed pursuant to Section 15(d) of the Act with respect to any employee stock purchase, savings or similar plan if the issuer of the stock or other securities offered to employees pursuant to the plan furnishes to the Commission the information and documents specified in the rule. If the registrant elects to follow the procedure permitted by Rule 15d–21, the information, financial statements and exhibits specified in paragraph (a)(2) of the rule shall be furnished on Form 11–K as an exhibit to the registrant's annual report. Such exhibit need not be signed, but the accountant's certificate accommpanying the financial statements included therein shall be manually signed.

H. Omission of information previously filed

(a) Except as provided in paragraph (b) below, the information called for by Part I of this form (Items 1 through 10) is to be furnished by all registrants required to file a report on this form. Part II (Items 11 through 15) may be omitted from the report by any registrant which, since the close of the fiscal year, has filed with the Commission a definitive proxy statement pursuant to

*15 U.S.C. 78o.

Regulation 14A, or a definitive information statement pursuant to Regulation 14C, which involved the election of directors, or which files such a proxy or information statement not later than 120 days after the close of the fiscal year.

(b) If the information called for by Item 4, 5 or 9 would be unchanged from that given in a previous report, a reference to the previous report which includes the required information will be sufficient. Copies of such previous report need not be filed with the report currently being filed on this farm.

EDITOR'S NOTE.—An EDP attachment, for statistical purposes, shall be furnished by the registrant as an Exhibit I with the Form if the registrant completed any sales during the fiscal fourth quarter of unregistered equity securities and all debt securities in amounts over $100,000 and with terms of maturity exceeding one year (both conditions must be met) which were not registered under the Securities Act of 1933. These EDP attachments are to be used as blank forms to be filled in by the registrant. Exact copies may be duplicated by the registrant for this purpose, or copies will be furnished by the Commission or Appeal Printing Company upon request.

FORM 10–K—ANNUAL REPORT UNDER SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

For the fiscal year ended ——; Commission file number ——; (Exact name of registrant as specified in its charter) ———; (State or other jurisdiction of incorporation or organization) ———; (I.R.S. Employer Identification No.) ———; (Address of principal executive offices) ———; (Zip Code) ———; Registrant's telephone number, including area code ———; Securities registered pursuant to Section 12(b) of the Act: *Title of each class ———; Name of each exchange on which registered ———;* Securities registered pursuant to Section 12(g) of the Act: (Title of class) ———; (Title of class) ———.

Indicate by check mark whether the registrant (1) has filed all annual, quarterly and other reports required to be filed with the Commission and (2) has been subject to the filing requirements for at least the past 90 days. Yes —. No —.

PART I: (SEE GENERAL INSTRUCTION H)

Item 1. Business.

(a) Identify the principal products produced and services rendered by the registrant and its subsidiaries, the principal markets for, and methods of distribution of, such products and services. Briefly describe any significant changes in the kinds of products produced or services rendered, or in the markets or methods of distribution, since the beginning of the fiscal year.

(b) If applicable and material for an understanding of the business, and with particular emphasis on significant changes and developments since the beginning of the fiscal year, briefly describe the following:

(1) Competitive conditions in the industry or industries involved and the competitive position of the enterprise.

(2) The dollar amount of backlog of orders believed to be firm, as of the end of the registrant's fiscal year, and as of the end of the preceding fiscal year, together with an indication of the proportion thereof not reasonably expected to be filled within the current fiscal year, any seasonal or other significant aspects of the backlog and the extent to which backlog is significant in the business of the registrant.

(3) The sources and availability of raw materials essential to the business.

(4) The importance and effect of all material patents, licenses, franchises and concessions held.

(5) The estimated dollar amount spent during the last fiscal year on material research activities relating to the development of new products or services or the improvement of existing products or services which was company-sponsored and on that which was customer-sponsored and indicating the approximate number of professional employees engaged full-time in each category of activity during such fiscal year; and,

(6) The number of persons employed by the enterprise.

(c)(1) *Information as to lines of business.* If the registrant and its subsidiaries are engaged in more than one line of business, state, for each of the registrant's last five fiscal years, or for each fiscal year ending after December 31, 1966, or for each fiscal year the registrant has been engaged in business, whichever period is less, the approximate amount or percentage of (i) total sales and revenues, and (ii) income (or loss) before income taxes and extraordinary items, attributable to each line of business which during either of the last two fiscal years accounted for—

(A) 10 per cent or more of the total of sales and revenues,

(B) 10 per cent or more of income before income taxes and extraordinary items computed without deduction of loss resulting from operations of any line of business, or

(C) a loss which equalled or exceeded 10 per cent of the amount of income specified in (B) above;

provided that if total sales and revenues did not exceed $50,000,000 during either of the last two fiscal years, the percentages specified in (A), (B) and (C) above shall be 15 per cent, instead of 10 per cent.

If it is impracticable to state the contribution to income (or loss) before income taxes and extraordinary items for any line of business, state the contribution thereof to the results of operations most closely approaching such income, together with a brief explanation of the reasons why it is not practicable to state the contribution to such income or loss.

Instructions. 1. If the number of lines of business for which information is required exceeds ten, the registrant may, at its option, furnish the required information only for the ten lines of business deemed most important to an understanding of the business. In such event, a statement to that effect shall be set forth.

2. In grouping products or services as lines of business, appropriate consideration shall be given to all relevant factors, including rates of profitability of operations, degrees of risk and opportunity for growth. The basis for grouping such products or services and any material changes between periods in such groupings shall be briefly described.

3. Where material amounts of products or services are transferred from one line of business to another, the receiving and transferring lines may be considered a single line of business for the purpose of reporting the operating results thereof.

4. If the method of pricing intra-company transfers of products or services or the method of allocation of common or corporate costs materially affects the reported contribution to income of a line of business, such methods and any material changes between periods in such methods and the effect thereof shall be described briefly.

5. Information regarding sales or revenues or income (or loss) from different classes of products or services in operations regulated by Federal, State or municipal authorities may be limited to those classes of products or services required by any uniform system of accounts prescribed by such authorities.

(2) *Information as to classes of similar products or services.* State for each fiscal year specified in (1) above the amount or percentage of total sales and revenues contributed by each class of similar products or services which contributed 10 per cent or more to total sales and revenues in either of the last two fiscal years, or 15 per cent or more of total sales and revenues if total sales and revenues did not exceed $50,000,000 during either of the last two fiscal years.

Instructions. 1. Paragraph (2) calls for information with respect to classes of similar products or services regardless of whether the registrant is engaged in more than one line of business as referred to in paragraph (1) above. However, this information may be combined where appropriate, with the response to paragraph (1).

2. Instruction 5 to paragraph (1) above shall also apply to paragraph (2).

(d) If a material part of the business of the registrant and its subsidaries is dependent upon a single customer, or a very few customers, the loss of any one of which would have a materially adverse effect on the registrant, the name of the customer or customers and other material facts with respect to their relationship, of any, to the registrant and the importance of the busineses to the registrant shall be stated.

(e) If the registrant and its subsidiaries engage in material operations in foreign countries, or if a material portion of sales or revenues are derived from customers in foreign countries, appropriate disclosure shall be made with respect to the importance of that part of the business to the registrant and the risks attendant thereto. Insofar as practicable, furnish information with respect to volume and relative profitability of such business.

(f) The Commission may, upon the request of the registrant, and where consistent with the protection of investors, permit the omission of any of the information herein required or the furnishing in substitution therefor of appropriate information of comparable character. The Commission may also require the furnishing of other information in addition to, or in substitution for, the information herein required in any cases where such information is necessary or appropriate for an adequate description of the business done or intended to be done.

ITEM 2. SUMMARY OF OPERATIONS

Furnish in comparative columnar form a summary of operations for the registrant, or for the registrant and its subsidiaries consolidated, or both as appropriate, for—

(a) each of the last five fiscal years of the registrant (or for the life of the registrant and its predecessors, if less), and

(b) any additional fiscal years necessary to keep the summary from being misleading.

Where necessary, include information or explanation of material significance to investors in appraising the results shown, or refer to such information or explanation set forth elsewhere in the report. An analysis of retained earnings and other additional capital accounts shall be furnished for each fiscal year covered by the summary.

Instructions. 1. Subject to appropriate variation to conform to the nature of the business, the following items shall be included: net sales or operating revenues; cost of goods sold or operating expenses (or gross profit); interest charges; income taxes; income before extraordinary items; extraordinary items; and net income. If either the profit and loss or retained earnings statements required by the Instructions as to Financial Statements are included in their entirety in the summary of operations, the statements so included need not be included elsewhere in the report.

2. If a period or periods reported on include operations of a business prior to the date of acquisition or for other causes differ from reports previously issued for any period, the summary shall be reconciled as to sales or revenues and net income in the summary or by footnote with the amounts previously reported.

3. If appropriate, the summary shall be prepared to show earnings applicable to common stock. Per share earnings and dividends

declared for each period of the summary shall be included and the basis for the computation stated together with the number of shares used in the computation. The registrant shall file as an exhibit a statement setting forth in reasonable detail the computation of per share earnings, unless the computation is clearly set forth in answer to this item.

4. (a) If debt securities are registered under Section 12 of the Act, the registrant may, at its option, show in tabular form for each fiscal year the ratio of earnings to fixed charges.

(b) Earnings shall be computed after all operating and income deductions except fixed charges and taxes based on income or profits and after eliminating undistributed income of unconsolidated persons. In the case of utilities, interest credits charged to construction shall be added to gross income and not deducted from interest.

(c) The term "fixed charges" shall mean (i) interest and amortization of debt discount and expense and premium on all indebtedness; (ii) one-third of all rentals reported in the schedule prepared in accordance with Rule 12-16 of Regulation S-X, or such portion as can be demonstrated to be representative of the interest factor in the particular case; and (iii) in case consolidated figures are used, preferred stock dividend requirements of consolidated subsidiaries, excluding in all cases items eliminated in consolidation.

(d) Any registrant electing to show the ratio of earnings to fixed charges, in accordance with this instruction, shall file as an exhibit a statement setting forth in reasonable detail the computation of the ratios shown.

5. Describe any change in accounting principles or practices followed by the registrant, or any change in the method of applying any such accounting principles or practices, which will materially affect the financial statements filed or to be filed for the current year with the Commission and which had not been previously reported hereunder. State the date of the change and the reasons therefor. A letter from the registrant's independent accountants, approving or otherwise commenting on the change, shall be filed as an exhibit.

ITEM 3. PROPERTIES

State briefly the location and general character of the principal plants, mines and other materially important physical properties of the registrant and its subsidiaries, whether held in fee or leased, and if leased, the expiration dates of material leases.

Instruction. What is required is such information as will reasonably inform investors as to the suitability, adequacy, productive capacity and extent of utilization of the facilities used in the enterprise. Detailed descriptions of the physical characteristics of individual properties or legal descriptions by metes and bounds are not required and should not be given.

ITEM 4. PARENTS AND SUBSIDIARIES

(a) Furnish a list or diagram of all parents and subsidiaries of the registrant and as to each person named indicate the percentage of voting securities owned, or other basis of control, by its immediate parent if any.

Instructions. 1. The list or diagram shall include the registrant and shall be so prepared as to show clearly the relationship of each person named to the registrant and to the other persons named. If any person is controlled by means of the direct ownership of its securities by two or more persons, so indicate by appropriate cross reference.

2. Designate by appropriate symbols (a) subsidiaries for which separate financial statements are filed; (b) subsidiaries included in consolidated financial statements; (c) subsidiaries included in group financial statements filed for unconsolidated subsidiaries; and (d) other subsidiaries, indicating briefly why financial statements of such subsidiaries are not filed.

3. Include the name of the State or other jurisdiction in which each subsidiary was incorporated or organized.

4. The names of particular subsidiaries may be omitted if the unnamed subsidiaries, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary.

5. The names of consolidated wholly-owned multiple subsidiaries carrying on the same line of business, such as chain stores or small loan companies, may be omitted, provided the name of the immediate's parent, the line of business, the number of omitted subsidiaries operating in the United States and the number operating in foreign countries are given.

This instruction shall not apply, however, to banks, insurance companies, savings and loan associations or to any subsidiary subject to regulation by another Federal agency.

6. If the registrant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 percent of the voting securities of such person is owned directly or indirectly by another single interest, or if the registrant takes up the equity in undisturbed earnings of any other unconsolidated person, such person shall be deemed to be a subsidiary for the purpose of this item.

ITEM 5. PENDING LEGAL PROCEEDINGS

Briefly describe any material pending legal proceedings, other than ordinary routine litigation incidental to the business, to which the registrant or any of its subsidiaries is a party or of which any of their property is subject. Include the name of the court or agency in which the proceedings were instituted, the date instituted and the principal parties thereto.

Instructions. 1. If the business ordinarily results in actions for negligence or other claims, no such action or claim need be described unless it departs from the normal kind of such actions.

2. No information need be given with respect to any proceeding which involves primarily a claim for damages if the amount involved, exclusive of interest and costs, does not exceed 15 per cent of the current assets of the registrant and its subsidiaries on a consolidated basis. However, if any proceedings presents in large degree the same issues as other proceedings pending or known to be contemplated, the amount involved in such other proceedings shall be included in computing such percentage.

3. Notwithstanding Instruction 1 and 2, any material bankruptcy, receivership, or similar proceeding with respect to the registrant or any of its significant subsidiaries shall be described. Any material proceedings to which any director, officer or affiliate of the registrant, any security holder named in answer to Item 11(a), or any associate of any such director, officer or security holder, is a party, or has a material interest, adverse to the registrant or any of its subsidiaries shall also be described.

ITEM 6. INCREASES AND DECREASES IN OUTSTANDING SECURITIES

General Instruction. The information called for herein shall be given as to each "security" as defined in Section 2(1) of the Securities Act of 1933. If the information called for has been previously reported on Form 10-Q or some other form, it may be incorporated by a specific reference to the previous filing.

(a) Give the following information as to all increases and decreases during the fiscal year in the amount of equity securities of the registrant outstanding:

(1) The title of the class of securities involved;

(2) The date of the transaction;

(3) The amount of securities involved and whether an increase or a decrease;

(4) A brief description of the transaction in which the increase or decrease occurred. If previously reported, the description may be incorporated by a specific reference to the previous filing.

Instruction. The information shall be prepared in the form of a reconciliation between the amounts shown to be outstanding in the balance sheet to be filed with this report and the amounts shown on the registrant's balance sheet for the previous year. The exercise of outstanding options or warrants (separately by class or type of option or warrant), conversions of previously issued convertible securities (separately by class of security) and the issuance of options may be grouped together showing the dates between which all such transactions occurred.

(b) Give the following information as to all securities of the registrant sold by the registrant during the fiscal year, which were not registered under the Securities Act of 1933, in reliance upon an exception from registration provided by Section 4(2) of that Act. Include sales of the registrant's reacquired securities as well as new issues, securities issued in exchange for property, services or other securities, and new securities resulting from the modification of outstanding securities:

(1) Give the date of sale, and the title and amount of the registrant's securities sold;

(2) Give the market price on the date of sale, if applicable;

(3) Give the names of the brokers, underwriters or finders, if any. As to any securities sold but which were not the subject of a public offering, name the persons or identify the class of persons to whom the securities were sold;

(4) As to securities sold for cash, state the aggregate offering price and the aggregate underwriting discounts, brokerage commissions, or finder's fees. As to any securities sold otherwise than for cash, state the nature of the transaction and the nature and aggregate amount of consideration received by the registrant;

(5) Indicate the Section of the Act or Rule of the Commission under which exemption from registration was claimed and state briefly the facts relied upon to make the exemption available; and

(6) State whether the securities have been legended and stop-transfer instructions given in connection therewith, and if not, state the reasons why not.

ITEM 7. APPROXIMATE NUMBER OF EQUITY SECURITY HOLDERS

State in the tabular form indicated below the approximate number of holders or record of each class of equity securities of the registrant as of the end of the fiscal year:

(1) Title of class.

(2) Number of record holders.

Instructions. 1. Attention is directed to the definition of the term "equity security" in Section 3(a)(11) of the Act and Rule 3a11-1 thereunder and the definition of the term "held of record" in Rule 12g5-1.

2. The information shall be given as of the end of the last fiscal year or as of any subsequent date, except that if the latest determination of the number of record holders of any class of equity securities was made for some other purpose within 90 days prior to the end of the last fiscal year, the information may be given as of the date of such determination.

3. Information need not be given with respect to the number of holders of outstanding nontransferable options to purchase securities of the registrant.

ITEM 8. EXECUTIVE OFFICERS OF THE REGISTRANT

List the names and ages of all executive officers of the registrant, state the nature of any family relationship between them and indicate all positions and offices with the registrant presently held by each person named.

Instruction. The term "executive officer" means the president, secretary, treasurer, any vice president in charge of a principal business function (such as sales, administration or finance) and any other officer who performs similar policy making functions for the registrant. The term "family relationship" means any relationship, by blood, marriage or adoption, not more remote than first cousin.

ITEM 9. INDEMNIFICATION OF DIRECTORS AND OFFICERS

State the general effect of any charter provision, bylaw, contract, arrangement or statute under which any director or officer of the registrant is insured or indemnified in any manner against any liability which he may incur in his capacity as such.

ITEM 10. FINANCIAL STATEMENTS AND EXHIBITS FILED

List all of the following documents filed as a part of the report:

(a) All financial statements.

(b) All exhibits, including those incorporated by reference.

Instruction. Where any financial statement or exhibit is incorporated by reference, the incorporation by reference shall be set forth in the list required by this item. See Rule 12b-23.

PART II: (SEE GENERAL INSTRUCTION H)

ITEM 11. PRINCIPAL SECURITY HOLDERS AND SECURITY HOLDINGS OF MANAGEMENT

(a) Furnish the following information, in substantially the tabular form indicated, as to the voting securities of the registrant owned of record or beneficially by each person who owns of record, or is known by the registrant to own beneficially, more than 10 percent of any class of such securities. Show in Column (3) whether the securities are owned both of record and beneficially, of record only, or beneficially only, and show in Columns (4) and (5) the respective amounts and percentages owned in each such manner.

Name and address.
Title of class.
Type of ownership.
Amount owned.
Percent of class.

(b) Furnish the following information in substantially the tabular form indicated as to each class of equity securities of the registrant or any of its parents or subsidiaries, other than directors' qualifying shares, beneficially owned directly or indirectly by all directors and officers of the registrant, as a group, without naming them.

(1) Title of class.
(2) Amount beneficially owned.
(3) Percent of class.

Instructions. 1. The percentages are to be calculated on the basis of the amount of outstanding securities, excluding securities held by or for the account of the issuer. In any case where the amount owned by directors and officers as a group is less than 1 per cent of the class, the per cent of the class owned by them may be omitted.

2. For the purpose of this item a person shall be deemed to be the beneficial owner of securities which he has the right to acquire through the exercise of presently exercisable options, warrants or rights or through the conversion of presently convertible securities. In computing the percentage of the class owned, securities which such person has a right to acquire shall be deemed to be outstanding.

3. If, to the knowledge of the registrant, more than 10 per cent of any class of voting securities of the registrant is held or to be held subject to any voting trust or other similar agreement, state the title of such securities, the amount held or to be held and the duration of the agreement. Give the names and addresses of the voting trustees and outline briefly their voting rights and other powers under the agreement.

(c) Describe any contractual arrangements, known to the registrant including any pledge of securities of the registrant or any of its parents the operation of the terms which may at a subsequent date result in a change in control of the registrant.

Instruction. This paragraph does not require a description of ordinary default provisions contained in the charter, trust indentures of other governing instruments relating to securities of the registrant.

ITEM. 12 DIRECTORS OF THE REGISTRANT

(a) State the name of each director of the registrant, the date on which his present term of office will expire and the nature of all other positions and offices with the registrant presently held by him.

(b) If not previously reported, state the nature of any family relationship between each such director and any other director or any executive officer of the registrant and give a brief account of his business experience during the past 5 years, including his principal occupations and employments during that period and the name and principal business of any corporation or other organization in which such occupation or employment was carried on.

(c) Describe any of the following events which have occurred during the past 10 years and which are material to an evaluation of the ability and integrity of any director of the registrant:

(1) A petition under the Bankruptcy Act or any state insolvency law was filed by or against, or a receiver, fiscal agent or similar officer was appointed by a court for business or property of, such person, or any partnership in which he was a general partner at or within 2 years before the time of such filing, or any corporation or business association of which he was an executive officer at or within 2 years before the time of such filing.

(2) Such person was convicted in a criminal proceeding (excluding traffic violations and other minor offenses) or is the subject of a criminal proceeding which is presently pending; or

(3) Such person was the subject of any order, judgment or decree of any court of competent jurisdiction permanently or temporarily enjoining him from acting as an investment adviser, underwriter, broker or dealer in securities, or as an affiliated person, director or employee of any investment company, bank, savings and loan association or insurance company, or from engaging in or continuing any conduct or practice in connection with any such activity or in connection with the purchase or sale of any security, or was the subject of any order of a Federal or state authority barring or suspending for more than 60 days the right of such person to be engaged in any such activity or to be associated with persons engaged in any such activity, which order has not been reversed or suspended.

Instruction. 1. The instruction to Item 8 shall also apply to this item.

2. If any event specified in paragraph (c) has occurred but information in regard thereto is omitted on the ground that it is not material, the registrant shall furnish, as supplemental information and not as a part of this report, a description of the event, and a statement of the reasons for the omission of information in regard thereto.

ITEM 13. REMUNERATION OF DIRECTORS AND OFFICERS

(a) Furnish the following information in substantially the tabular form indicated below as to all direct remuneration paid by the registrant and its subsidiaries during the registrant's last fiscal year to the following persons for services in all capacities:

(1) Each director of the registrant whose aggregate direct remuneration exceeded $40,000, and each of the three highest paid officers of the registrant whose aggregate direct remuneration exceeded that amount, naming each such director and officer.

(2) All directors and officers of the registrant as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group.

(B) Capacities in which remuneration was received.

(C) Aggregate direct remuneration.

Instruction. 1. Except as provided in Instruction 2, paragraph (a) of this item applies to any person who was a director or officer of the registrant at any time during the period specified. However, information need not be given for any portion of the period during which such person was not a director or officer of the registrant.

2. Paragraph (a)(1) of this item does not apply to any person who was not named as a director or officer of the registrant in the first registration statement filed on Form 10 for the registration of a class of securities pursuant to Section 12 of the Act, provided (i) such person has not been a director or officer of the registrant since the filing of such statement and (ii) the same information is not otherwise required to be disclosed in any other material filed with the Commission.

3. The information is to be given on an accrual basis if practicable. The tables required by this paragraph and paragraph (b) may be combined if the registrant so desires.

4. Do not include remuneration paid to a partnership in which any director or officer was a partner, but see Item 15.

5. If any part of the remuneration shown in response to this item was paid pursuant to a material bonus or profit-sharing plan, briefly describe the plan and the basis upon which directors or officers participate therein. See Instruction 1 to paragraph (b) for the meaning of the term "plan."

(b) Furnish the following information in substantially the tabular form indicated as to all annuity, pension or retirement benefits proposed to be paid to the following persons in the event of retirement at normal retirement date pursuant to any existing plan provided or contributed to by the registrant or any of its subsidiaries:

(1) Each director or officer named in answer to paragraph (a)(1), naming each such person.

(2) All directors and officers of the registrant who are eligible for such benefits, as a group, stating the number of persons in the group without naming them.

(A) Name of individual or number of persons in group.

(B) Amount set aside or accrued during registrant's last fiscal year.

(C) Estimated annual benefits upon retirement.

Instruction. 1. The term "plan" in this paragraph and in paragraph (c) includes all plans, contracts, authorizations or arrangements, whether or not set forth in any formal document.

2. Column (B) need not be answered with respect to payments computed on an actuarial basis under any plan which provides for fixed benefits in the event of retirement at a special age or after a specified number of years of service. In such case, Columns (A) and (C) need not be answered with respect to directors or officers as a group.

3. The information called for by Column (C) may be given in the form of a table showing the annual benefits payable upon retirement to persons in specified salary classifications.

4. In the case of any plan (other than those specified in Instruction 2) where the amount set aside each year depends upon the amount of earnings of the registrant or its subsidiaries for such year or a prior year, or where it is otherwise impracticable to state the estimated benefits upon retirement, there shall be set forth, in lieu of the information called for by Column (C), the aggregate

amount set aside or accrued to date, unless it is impracticable to do so, in which case there shall be stated the method of computing such benefits.

(c) Describe briefly all remuneration payments (other than accrued payments reported under paragraph (a) or (b) of this item) proposed to be made in the future, directly or indirectly, by the registrant or any of its subsidiaries pursuant to any existing plan or arrangement to (i) each director or officer named in answer to paragraph (a) (1), naming each such person, and (ii) all directors and officers of the registrant as a group, without naming them.

Instruction. Information need not be included as to payments to be made for, or benefits to be received from, group life or accident insurance, group hospitalization or similar group payments or benefits. If it is impracticable to state the amount of remuneration payments proposed to be made, the aggregate amount set aside or accrued to date in respect of such payments shall be stated, together with an explanation of the basis for future payments.

ITEM 14. OPTIONS GRANTED TO MANAGEMENT TO PURCHASE SECURITIES

Furnish the following information, in substantially the tabular form indicated, as to all options to purchase any securities from the registrant or any of its subsidiaries which were granted to or exercised by the following persons since the beginning of the fiscal year, and as to all options held by such persons as of the latest practicable date regardless of which such options were granted: (i) each director and officer named in answer to Item 13(a)(1), naming each such person; and (ii) all directors and officers of the registrant as a group, without naming them:

Instructions. 1. The term "options" as used in this item includes all options, warrants or rights, other than those issued to security holders as such on a pro rata basis. Where the average option price per share is called for, the weighted average price per share shall be given.

2. The extension, regranting or material amendment of options shall be deemed the granting of options within the meaning of this term.

3. (i) Where the total market value on the granting dates of the securities called for by all options granted during the period specified does not exceed $10,000 for any officer or director named in answer to Item 13(a)(1) or $40,000 for all officers and directors as a group, this item need not be answered with respect to options granted to such person or group. (ii) Where the total market value on the dates of purchase of all securities purchased through the exercise of options during the period specified does not exceed $10,000 for any such person or $40,000 for such group, this item need not be answered with respect to options exercised by such person or group. (iii) Where the total market value as of the latest practicable date of the securities called for by all options held at such time does not exceed $10,000 for any such person or $40,000 for such group, this item need not be answered with respect to options held as of the specified date by such person or group.

4. If the options relate to more than one class of securities, the information shall be given separately for each such class.

ITEM 15. INTEREST OF MANAGEMENT AND OTHERS IN CERTAIN TRANSACTIONS

(a) Describe briefly any transactions since the beginning of the last fiscal year or any presently transactions, to which the registrant or any of its subsidiaries was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the registrant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any security holder named in answer to Item 11(a);

(3) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant.

Instructions. 1. This item applies to any person who held any of the positions or relationships specified at any time during the period specified. However, information need not be given for any portion of the period during which such person did not hold any such position or relationship.

2. No information need be given in response to this item as to any remuneration or other transaction reported in response to Items 13 or 14, or as to any transaction with respect to which information may be omitted pursuant to Instruction 2 to Item 13(b), the instruction to Item 13(c), or Instruction 2 or 3 to paragraph (b) of this item.

3. No information need be given in answer to this item as to any transaction where—

(a) the rates or charges involved in the transaction are determined by competitive bids, or the transaction involves the rendering of services as a common or contract carrier, or public utility, at rates or charges fixed in conformity with law or governmental authority;

(b) the transaction involves services as a bank depository of funds, transfer agent, registrar, trustee under a trust indenture, or similar services;

(c) the amount involved in the transaction or a series of similar transactions, including all periodic installments in the case of any lease or other agreement providing for periodic payments or installments, does not exceed $40,000; or

(d) the interest of the specified person arises solely from the ownership of securities of the registrant and the specified person receives no extra or special benefit not shared on a pro rata basis by all holders of securities of the class.

4. It should be noted that this item calls for disclosure of indirect, as well as direct, material interests in transactions. A person who has a position or relationship with a firm, corporation, or other entity, which engages in a transaction with the registrant or its subsidiaries may have an indirect interest in such transaction by reason of such position or relationship. However, a person shall be deemed not to have a material indirect interest in a transaction within the meaning of this item where—

(a) the interest arises only (i) from such person's position as a director of another corporation or organization (other than a partnership) which is a party to the transaction, or (ii) from the direct or indirect ownership by such person and all other persons specified in subparagraphs (1) through (3) above, in the aggregate, of less than a 10 percent equity interest in another person (other than a partnership) which is a party to the transaction, or (iii) from both such position and ownership;

(b) the interest arises only from such person's position as a limited partner in a partnership in which he and all other persons specified in (1) through (3) above had an interest of less than 10 percent; or

(c) the interest of such person arises solely from the holding of an equity interest (including a limited partnership interest, but excluding a general partnership interest) or a creditor interest in another person which is a party to the transaction with the issuer or any of its subsidiaries and the transaction is not material to such other person.

5. The amount of the interest of any specified person shall be computed without regard to the amount of the profit and loss involved in the transaction. Where it is not practicable to state the approximate amount of the interest, the approximate amount involved in the transaction shall be indicated.

6. In describing any transaction involving the purchase or sale of assets by or to the registrant or any of its subsidiaries, otherwise than in the ordinary course of business, state the cost of the assets to the purchaser and, if acquired by the seller within two years prior to the transaction, the cost thereof to the seller.

7. The foregoing instructions specify certain transactions and interests as to which information may be omitted in answering this item. There may be situations where, although the foregoing instructions do not expressly authorize non-disclosure, the interest of a specified person in the particular transaction or series of transactions is not a material interest. In that case, information regarding such interest and transaction is not required to be disclosed in response to this item.

(b) State as to each of the following persons who was indebted to the registrant or its subsidiaries at any time since the beginning of the last fiscal year of the registrant, (i) the largest aggregate amount of the indebtedness outstanding at any time during such period, (ii) the nature of the indebtedness and of the transaction in which it was incurred, (iii) the amount thereof outstanding as of the latest practicable date, and (iv) the rate of interest paid or charged thereon:

(1) Each director or officer of the registrant; and

(2) Each associate of any such director or officer.

Instructions. 1. Include the name of each person whose indebtedness is described and the nature of the relationship by reason of which the information is required to be given.

2. This paragraph does not apply to any person whose aggregate indebtedness did not exceed $10,000 or one percent of the registrant's total assets, whichever is less, at any time during the period specified. Exclude in the determination of the amount of indebtedness all amounts due from the particular person for purchases subject to usual trade terms, for ordinary travel and expense advances and for other transactions in the ordinary course of business.

3. Notwithstanding Instruction 2, if the registrant or any of its subsidiaries is engaged primarily in the business of making loans and loans to any of the specified persons in excess of $10,000 or one percent of its total assets, whichever is less, were outstanding at any time during the period specified, such loans shall be disclosed. However, if the lender is a bank, such disclosure may consist of a statement, if such is the case, that the loans to such persons (i) were made in the ordinary course of business, (ii) were made on substantially the same terms, including interest rates and collateral, as those prevailing at the time for comparable transactions with other persons, and (iii) did not involve more than normal risk of collectibility or present other unfavorable features.

4. If to the knowledge of the registrant any indebtedness required to be described arose under Section 16(b) of the Act and has not been discharged by payment, state the amount of the profit realized, that such profit will inure to the benefit of the registrant or its subsidiaries and whether suit will be brought or other steps taken to recover such profit. If in the opinion of counsel a question reasonably exists as to the recoverability of such profit, it will suffice to state all facts necessary to describe the transaction, including the prices and number of shares involved.

(c) Describe briefly any transactions since the beginning of the registrant's last fiscal year or any presently proposed transaction, to which any pension, retirement, savings or similar plan provided by the registrant or any of its parents or subsidiaries, was or is to be a party, in which any of the following persons had or is to have a direct or indirect material interest, naming such person and stating his relationship to the registrant, the nature of his interest in the transaction and, where practicable, the amount of such interest:

(1) Any director or officer of the registrant;

(2) Any security holder named in answer to Item 11(a);

(3) Any relative or spouse of any of the foregoing persons, or any relative of such spouse, who has the same home as such person or who is a director or officer of any parent or subsidiary of the registrant; or

(4) The registrant or any of its subsidiaries.

Instructions. 1. Instructions 2, 3, 4 and 5 to paragraph (a) of this item shall apply to paragraph (c) of this item.

2. Without limiting the general meaning of the term "transaction" there shall be included in answer to this item any remuneration received or any loans received or outstanding during the period, or proposed to be received.

3. No information need be given in answer to paragraph (c) with respect to—

(a) payments to the plan, or payments to beneficiaries, pursuant to the terms of the plan;

(b) payment of remuneration for services not in excess of 5 percent of the aggregate remuneration received by the specified person during the registrant's last fiscal year from the registrant and its subsidiaries; or

(c) any interest of the registrant or any of its subsidiaries which arises solely from its general interest in the success of the plan.

SIGNATURES

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

(Registrant) ———; Date ———; By ——
(Signature) * ———.

INSTRUCTIONS AS TO FINANCIAL STATEMENTS

The following instructions specify the balance sheets, profit and loss statements and source and application of funds statements required to be filed as a part of the annual report on this form. Regulation S–X governs the certification, form and content of such financial statements, including the basis of consolidation, and prescribes the statements of retained earnings and other additional capital and schedules to be filed in support thereof. Attention is directed to Rules 12b–23 and 12b–36.

If either the profit and loss or retained earnings statements required are included in their entirety in the summary of operations required by Item 2, the statements so included need not be otherwise included in the annual report.

1. STATEMENTS OF THE REGISTRANT

(a) There shall be filed for the registrant, in comparative columnar form, certified balance sheets as of the close of the last two fiscal years and certified profit and loss and source and application of funds statements for such fiscal years.

(b) Notwithstanding paragraph (a), the individual financial statements of the registrant may be omitted if (1) consolidated statements of the registrant and one or more of its subsidiaries are filed, and (2) the conditions specified in either of the following paragraphs are met:

(i) The registrant is primarily an operating company and all subsidiaries included in the consolidated financial statements filed are wholly-owned subsidiaries and are not indebted to any person other than the parent or the consolidated subsidiaries in an amount which is material in relation to the total consolidated assets at the date of the latest balance sheet filed excepting indebtedness incurred in the ordinary course of business which is not overdue and which matures within one year from the date of its creation, whether evidenced by securities or not. Indebtedness of a subsidiary which is guaranteed by or secured by leases of its parents or the parent's consolidated subsidiaries is to be excluded for the purpose of this determination.

(ii) The registrant's total assets, exclusive of investments in and advances to the consolidated subsidiaries, constitute 75 per cent or more of the total assets shown by the latest consolidated balance sheet filed and the registrant's total gross revenues for the latest period for which profit and loss statements would be filed, exclusive of interest and dividends received, or equity in income, from the consolidated subsidiaries, constitute 75 per cent or more of the total gross revenues shown by the consolidated profit and loss statements filed.

2. CONSOLIDATED STATEMENTS

There shall be filed for the registrant and its subsidiaries, in comparative columnar form, certified consolidated balance sheets as of the close of the last two fiscal years of the registrant and certified consolidated profit and loss and source and application of funds statements for such fiscal years.

3. STATEMENTS OF SUBSIDIARIES NOT CONSOLIDATED

(a) Subject to Rule 4-03 of Regulation S-X regarding group statements, there shall be filed for each majority-owned subsidiary of the registrant not consolidated the financial statements which would be required if it were a registrant.

(b) If the fiscal year of any unconsolidated subsidiary ends within 90 days before the date of filing the annual report, or after the date of filing, the statements of the subsidiary required by pargraph (a) may be filed as an amendment to the report within 90 days after the end of the subsidiary's fiscal year.

4. FIFTY PERCENT OWNED PERSONS AND OTHER PERSONS

If the registrant owns directly or indirectly approximately 50 percent of the voting securities of any person and approximately 50 per cent of the voting securities of such person is owned directly or indirectly by another single interest or if the registrant takes up the equity in undistributed earnings of any other unconsolidated person, there shall be filed for each such person the financial statements which would be required if it were a registrant, subject to Rule 4-03 of Regulation S-X regarding group statements. The statements filed for each such person shall identify the other single interest, or other interests in any person operated jointly.

5. OMISSION OF STATEMENTS REQUIRED BY INSTRUCTIONS 3 AND 4

Notwithstanding Instructions 3 and 4, there may be omitted from the annual report all financial statements of any one or more unconsolidated subsidiaries, 50 per cent owned persons or other persons: (1) if all such subsidiaries, 50 per cent owned persons and other persons for which statements are so omitted, considered in the aggregate as a single subsidiary, would not constitute a significant subsidiary; or (2) if the investments in and advances to such person by its parent and the parent's other subsidiaries, and the parent's and the other subsidiaries' equity in the net income of the person, does not exceed 10 percent of the total consolidated assets at the date of the latest balance sheet filed or the consolidated net income for the latest fiscal year for which income statements are filed, respectively.

6. AFFILIATES WHOSE SECURITIES ARE PLEDGED AS COLLATERAL

(a) For each affiliate of the registrant whose securities constitute a substantial portion of the collateral securing any class of registered securities, there shall be filed the financial statements that would be required if the affiliate were a registrant. However, statements need not be filed pursuant to this instruction for any person whose statements are otherwise filed with the report on an individual, consolidated or combined basis.

(b) For the purposes of this instruction, securities of a person shall be deemed to constitute a substantial portion of the collateral if the aggregate principal amount, par value, or book value as shown by the books of the registrant, or market value, whichever is the greatest, of such securities equals 20 per cent or more of the principal amount of the class secured thereby.

7. STATEMENTS OF BANKS AND INSURANCE COMPANIES

Notwithstanding the requirements of the foregoing instructions, financial statements filed for banks for periods ending on or before November 30, 1971 and for life insurance companies need not be certified.

8. REGISTRANTS NOT IN THE PRODUCTION STAGE

(a) Notwithstanding the foregoing instructions, if the registrant falls within the terms of paragraph (b) or (c) of Rule 5A–01 of Regulation S–X, the following statements, all of which shall be certified except as provided in (b) below, shall be filed for the registrant and each of its significant subsidiaries, if any;

(i) The statement specified in Rules 5A–02, 5A–03, 5A–04, 5A–05 and 5A–07 shall be filed in comparative columnar form, as of the end of the last two fiscal years; and

(ii) The statement of cash receipts and disbursements specified in Rule 5A–06 shall be filed, in comparative columnar form, for such fiscal years.

(b) The financial statements prescribed in (a) above need not be certified if all of the following conditions are met by the registrant and each of its significant subsidiaries, if any:

(i) Gross receipts from all sources for the fiscal year are not in excess of $5,000;

(ii) The registrant has not purchased or sold any of its own stock granted options therefor, or levied assessments upon outstanding stock;

(iii) Expenditures for all purposes for the fiscal year are not in excess of $5,000;

(iv) No material change in the business has occurred during the fiscal year, including any bankruptcy, reorganization, readjustment or succession or any material acquisition or disposition of plants, mines, mining equipment, mine rights or leases;

(v) No exchange upon which the shares are listed, or governmental authority having jurisdiction, requires the furnishing to it, or the publication of, certified financial statements.

9. FILING OF OTHER STATEMENTS IN CERTAIN CASES

The Commission may, upon the informal written request of the registrant and where consistent with the protection of investors, permit the omission of one or more of the statements herein required or the filing in substitution therefor of appropriate statements of comparable character. The Commis-

* Print the name and title of the signing officer under his signature.

sion may also by informal written notice require the filing of other statements in addition to, or in substitution for, the statements herein required in any case where such statements are necessary or appropriate for an adequate presentation of the financial condition of any person whose financial statements are required, or whose statements are otherwise necessary for the protection of investors.

INSTRUCTIONS AS TO EXHIBITS

Subject to Rule 12b–32 regarding the incorporation of exhibits by reference, the following exhibits shall be filed as a part of the report:

A. Copies of all amendments or modifications, not previously filed, to all exhibits previously filed (or copies of such exhibits as amended or modified).

B. Copies of all contracts and other documents of a character required to be filed as an exhibit to an original registration statement on Form 10 which were executed or in effect during the fiscal year and not previously filed.

C. Copies of the exhibits called for by Instructions 3, 4(d) and 5 to Item 2.

SUPPLEMENTAL INFORMATION TO BE FURNISHED WITH REPORTS FILED PURSUANT TO SECTION 15(d) OF THE ACT BY ISSUERS WHICH HAVE NOT REGISTERED SECURITIES PURSUANT TO SECTION 12 OF THE ACT

(a) Every registrant which files an annual report on this form pursuant to Section 15 (d) of the Act shall furnish to the Commission for its information, at the time of filing its report on this form, four copies of the following:

(1) Any annual report to stockholders covering the registrant's last fiscal year; and

(2) Every proxy statement, form of proxy or other proxy soliciting material sent to more than ten of the registrant's stockholders with respect to any annual or other meeting of stockholders.

(b) The foregoing material shall not be deemed to be "filed" with the Commission or otherwise subject to the liabilities of Section 18 of the Act, except to the extent that the registrant specifically incorporates it in its annual report on this form by reference.

(c) If no such annual report or proxy material has been sent to stockholders, a statement to that effect shall be included in the answer to Item 9. If such report or proxy material is to be furnished to stockholders subsequent to the filing of the annual report on this form, the registrant shall so state in answer to Item 9 and shall furnish copies of such material to the Commission when it is sent to stockholders.

The SEC's Failure To Require Adequate Disclosure

For many years the SEC had a rule that corporations subject to its jurisdiction disclose insofar as practicable the relative importance of each product, service or class of similar products that contributed 15 percent or more to gross sales. This rule had long been criticized as being excessively broad.

However, the SEC remained unmoved to change until after Senator Philip Hart's Senate Subcommittee on Antitrust and Monopoly held hearings in 1965 on the subject, and threatened to introduce legislation directing the SEC to require divisional or some other more definitive form of segmented sales and profit reporting.

SEC Chairman, Manuel L. Cohen, subsequently informed Senator Hart the SEC already had the authority to require adequate disclosure and that it was considering doing so.

During the next 4 years, there was considerable discussion and controversy in the business community, particularly among public accountants, a number of whom had long been critical of this and other SEC reporting requirements. But the greater part of the accounting fraternity opposed stricter rules.

Finally, September 4, 1968, the SEC issued a proposed rule that would have required, among other things, corporations to report the sales and net income of each class of related or similar products which contribute 10 percent or more to sales or net income.

Although the SEC made no systematic, independent analysis of the proposed rule, evidence was presented demonstrating that the proposed rule required little meaningful data from the largest corporations.

The SEC, evidently not wishing to be confused by any facts, apparently was much impressed that practically all industry sources objected to even the proposed rule. The result was passage of a watered-down version of the original proposal.

Not only did the SEC permit large corporations to report financial details of only their very largest product lines, but it failed to adopt rules guaranteeing comparability in reporting. Rather than establish reporting criteria of its own, SEC gave management discretion in deciding what constituted meaningful product categories.

It did so on the premise that:

"Management, because of its familiarity with company structure, is in the most informed position to separate the company into components on a reasonable basis for reporting purposes. Accordingly, discretion is left to the management to devise a reporting pattern appropriate to the particular company's operations and responsive to its organizational concepts."

The SEC rules require much more detailed disclosure from small corporations than from large ones. As noted above, international conglomerates the likes of ITT need disclose few details of the sources of their profits. Nor is ITT unique. Many other large companies give even fewer financial details than ITT. For example, Minnesota Mining & Manufacturing Co., which has thousands of products and 1970 sales of $1.7 billion, is, for earnings purposes, a single product company. Its rationale for interpreting the SEC reporting rule this broadly is that all but 5 percent of its sales are products related to the technology of coatings and bondings.

As already noted, SEC's reporting rule has a strong bias requiring much more detailed reporting by small companies than by large companies. An example will illustrate the point. Suppose you wished to obtain financial information concerning the nature and scope of electrical components manufactured by various manufacturing firms. From ITT's financial reports you would learn that it is an important manufacturer of various electrical components, TV sets, radios, phonographs, and tape recorders.

However, ITT combines sales and earnings from its electronic and electrical equipment with those from home freezers and household appliances, air conditioning, disc brakes, and industrial pumps. As a result, ITT electrical products are lumped in a broad category of industrial and consumer products with combined sales of $1.8 billion.

Nor would you learn anything of significance about various electronics products from the public reports of General Telephone & Electronics. GTE reports all of its electronic revenues and earnings in a single category—Sylvania—with combined sales of $816 million. Yet, Sylvania manufactures literally hundreds of different products, in some of which it is a leading producer.

Consider, in contrast, what you can learn about the operations of small electronic corporations. Some small companies are so specialized that all of their sales are in a single, narrow-product line. For example, PEC Industries, Fort Lauderdale, Fla., reported that all of its 1970 revenue of $948,205 came from the sale of printed circuit boards.

Although other small companies make more than a single line, they make public quite detailed product information. For example, Nucleonic Products Co., Inc., Canoga Park, Calif., with 1970 sales of $6.3 million, breaks down its sales as follows:

	Percent of sales
Semiconductor components	60
Passive components (resistors and capacitors)	38
Electromechanical switches	2

Of course, if Nucleonic Products or PEC Industries were acquired by ITT, their operations would become lost in the corporate bowels of ITT and never be heard from again—unless ITT decided it was in its interest to do otherwise.

It is for this reason that product and other information that is readily available for most small companies is shrouded in secrecy for the large corporation.

The failure of the SEC to require adequate reporting argues forcefully for adopting a more direct approach to the question of corporate secrecy. Because the SEC has repeatedly demonstrated an inability to perform responsibly in this area, I think a new legislative mandate is required.

Additionally, even were the agency to perform more responsibly in the future than in the past, new legislation is required because the SEC's authority is restricted mainly to financial disclosure relevant to protecting the investor.

PART I—THE CORPORATION

General Motors Corporation, incorporated in 1916 under the laws of the State of Delaware, is herein sometimes referred to as the "Registrant" or the "Corporation" and, together with its consolidated subsidiaries, is herein sometimes referred to as "General Motors."

(c) (1) If the registrant and its subsidiaries are engaged in more than one line of business, state, for each . . . fiscal year ending after December 31, 1966 . . . the approximate amount or percentage of (i) total sales and revenues, and (ii) income (or loss) before income taxes and extraordinary items, attributable to each line of business which during either of the last two fiscal years accounted for—(a) 10 per cent or more of the total of sales and revenues, (b) 10 per cent or more of income before income taxes and extraordinary items computed without deduction of loss resulting from operations of any line of business, or (c) a loss which equalled or exceeded 10 per cent of the amount of income specified in (b) above . . .

(2) State for each fiscal year specified in (1) above the amount or percentage of total sales and revenues contributed by each class of similar products or services which contributed 10 per cent or more to total sales and revenues in either of the last two fiscal years . . .

General Motors is a highly integrated business engaged primarily in the manufacture, assembly and distribution of products powered by motors, principally transportation equipment, and considers itself to be in a single broadly defined line of business. The amount of net sales, by classes of products as described in Item 1(a), and income before income taxes attributable to the worldwide operations of the Registrant and its consolidated subsidiaries and the amount of net sales and net earnings attributable to operations outside the United States and Canada are summarized as follows:

[In millions of dollars]

	Years ended Dec. 31—			
	1970	1969	1968	1967
Operations worldwide:				
Net sales:				
Commercial:				
Automotive products	$16,494.5	$21,764.2	$20,446.3	$17,723.6
Nonautomotive products	1,722.0	1,831.4	1,609.8	1,526.2
Total commercial	18,216.5	23,595.6	22,056.1	19,249.8
Defense and space	535.9	699.5	699.3	776.5
Total operations worldwide	18,752.4	24,295.1	22,755.4	20,026.3
Income before income taxes [1]	788.5	3,454.0	3,524.8	3,013.3
Operations outside the United States and Canada:				
Net sales [2]	3,652.2	3,378.5	2,989.1	2,780.9
Net earnings	118.2	159.7	128.1	108.5

[1] Includes the equity of the registrant and its consolidated subsidiaries in the net income of subsidiary companies not consolidated as follows: 1970, $70,400,000; 1969, $50,600,000; 1968, $51,900,000; 1967, $57,000,000.
[2] Includes intercompany sales to operations within the United States and Canada, which are eliminated upon consolidation.

The operations of General Motors are assigned to divisions or subsidiaries; consequently, because of the high degree of integration, substantial interdivisional transfers of materials and services are made. Therefore, any determination of income by the classes of products shown above (each of which includes transportation equipment) would be largely arbitrary because of the allocation and reallocation of costs, including corporate costs, benefitting more than one division or product. Within these limitations, the Corporation believes that during the years 1967 to 1970 the contribution to income before income taxes by automotive products was somewhat higher than their proportionate contribution to sales, while that of nonautomotive and defense and space products was somewhat lower than their proportionate contribution to sales.

Mr. MUSKIE. Mr. President, I strongly support the amendment of my distinguished colleague from Maine (Mr. HATHAWAY) to ensure that SEC publicly reported information not be excluded from the public reports of the Cost of Living Council on the prices, costs, and profits of large companies. I believe that the public has a right to know on what basis such prices and price increases are founded.

This amendment would apply only to companies with annual sales of $250 million or more which increase prices of their products by more than an average 1.5 percent. And it would not require publication of sensitive information, since it merely applies to information which the SEC can now require be made public.

To mandate public disclosure of such information by the Cost of Living Council encourages the success of two important weapons in our battle against inflation. It would help restore public confidence in the wage-price voluntary controls of phase III. And it would encourage large corporations to hold down prices within the 1.5 percent guideline.

I commend Senator HATHAWAY on his efforts to assure that the public has ready access to critical information about inflation.

Mr. TOWER. Mr. President, how much time does the Senator from Maine have remaining?

The PRESIDING OFFICER. The Senator from Maine has used up all his time. The Senator from Texas has 3 minutes remaining.

Mr. TOWER. Mr. President, with regard to the definition of proprietary information, that is information on sources of income, profits, losses, costs or expenditures, which is what is currently included.

Actually, the effect of the amendment of the Senator from Maine would be simply for us to undo what we did yesterday.

I therefore move to table the amendment of the Senator from Maine.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to table the amendment of the Senator from Maine (putting the question).

The Chair is in doubt and now asks for a division. Those in favor of the motion will respond by standing.

Those opposed will now stand.

Mr. HATHAWAY. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion of the Senator from Texas to lay on the table the amendment of the Senator from Maine. 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 Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), the Senator from Louisiana (Mr. LONG), the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is 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 California (Mr. CRANSTON) would vote "nay."

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY), the Senator from Illinois (Mr. PERCY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 37, nays 49, as follows:

[No. 54 Leg.]

YEAS—38

Aiken	Dominick	Packwood
Allen	Eastland	Pearson
Bartlett	Ervin	Roth
Beall	Fannin	Saxbe
Bellmon	Fong	Scott, Pa.
Bennett	Griffin	Scott, Va.
Brock	Gurney	Stafford
Byrd, Harry F., Jr.	Hansen	Stevens
Cotton	Hartke	Taft
Curtis	Helms	Thurmond
Dole	Hruska	Tower
Domenici	McClellan	Weicker
	McClure	Young

NAYS—49

Abourezk	Haskell	Montoya
Bayh	Hatfield	Moss
Bentsen	Hathaway	Muskie
Bible	Hollings	Nelson
Biden	Huddleston	Nunn
Brooke	Humphrey	Pell
Burdick	Inouye	Proxmire
Byrd, Robert C.	Jackson	Randolph
Cannon	Javits	Ribicoff
Case	Johnston	Schweiker
Chiles	Kennedy	Sparkman
Church	Magnuson	Stevenson
Clark	Mathias	Talmadge
Cook	McGee	Tunney
Eagleton	McGovern	Williams
Gravel	McIntyre	
Hart	Metcalf	

Hartke, against.

NOT VOTING—13

Baker	Hughes	Percy
Buckley	Long	Symington
Cranston	Mansfield	Stennis
Fulbright	Mondale	
Goldwater	Pastore	

So Mr. TOWER's motion to lay Mr. HATHAWAY's amendment on the table was rejected.

The PRESIDING OFFICER (Mr. INOUYE). The question now recurs on agreeing to the Hathaway amendment.

The amendment was agreed to.

AMENDMENT NO. 39

Mr. PROXMIRE. Mr. President, I call up my amendment No. 39 and ask that reading of the amendment be dispensed with. I will explain it.

The PRESIDING OFFICER. Without objection, the reading of the amendment will be dispensed with; and, without objection, it will be printed in the RECORD.

The text of the amendment is as follows:

At the end of the bill, add the following new section:

SIX-MONTH FREEZE

SEC. 9. The Economic Stabilization Act of 1970 is amended by inserting after section 203 the following new section:

"§ 203A. Six-month freeze

"Immediately upon the enactment of this section, the President shall issue an order stabilizing prices (including prices of raw agricultural products), rents, wages, salaries, interest rates, and dividends for a period of one hundred and eighty 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 thirty-day period ending March 15, 1973, for like or similar commodities, services, or transfers. Such order shall also require that price, rent, or interest rate reductions be made when necessary to stabilize profits at the level referred to in the preceding sentence. If no transactions occurred during the thirty-day 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 thirty-day period in which such transactions did occur."

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

Mr. PROXMIRE. I am happy to yield to the Senator from West Virginia.

Mr. ROBERT C. BYRD. Mr. President, it is my understanding that this is the last amendment. I, therefore, ask for the yeas and nays on final passage of the bill.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I ask for the yeas and nays on my amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, this is a simple amendment which provides an across-the-board freeze on all wages, prices, interest rates, rents, dividends, and profits.

I now ask unanimous consent to modify my amendment and add on line 12, page 2, the following:

On page 2, line 12, strike the question mark and add the following:

"The President may make such exceptions and variations to the order issued under this section as may be necessary to prevent gross inequities and hardships."

The PRESIDING OFFICER. Without objection, the amendment is so modified.

Mr. PROXMIRE. Mr. President, this amendment is offered because in my judgment a 6-month freeze in across-the-board prices is needed to purge the economy of inflationary expectations generated by the sudden and premature abandonment of price and wage controls under phase III.

I think that all of us recognize the developing reactions throughout the country on the part of housewives, businessmen, farmers, and so many other segments of our society, concerning rising prices.

We should recognize that if we have studied what is behind this, whereas reaction has been sharp and adverse to date, it is going to be far worse, believe me, far worse in the coming 4 or 5 months unless we act now to halt price increases.

Wholesale prices are up in the past month by the sharpest rise in the past 22 years.

As we know, wholesale prices are the consumer prices of the future so that unless we act now—tonight—in the time that remains on the wage stabilization bill, we are certainly going to be in a position in the coming months when all of us will live to regret the sharp inflation which is bound to be protested throughout the country.

Mr. President, let me say, before I yield to the distinguished Senator from Washington (Mr. JACKSON), that I shall be brief tonight. I have an hour and a half on my amendment and the opposition has an hour and a half. I would be happy to agree, as of now, to 10 minutes on a side and to vote this amendment up or down in 20 minutes, if that is agreeable, and ask unanimous consent that the time be limited accordingly.

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

Mr. PROXMIRE. I now yield to the distinguished Senator from Washington (Mr. JACKSON).

Mr. JACKSON. Mr. President, I want to commend the distinguished Senator from Wisconsin for this amendment. We have been voting the last 2 days on piecemeal aspects of the problem of inflation. I believe we have reached the point in this country where we have a situation in which the time has come, at least psychologically, to take a drastic step here and try at least to shock the economy into some stability.

There is no doubt in my mind that the biggest issue facing this country is inflation. If we do not do something about it, we are going to see a repeat of the scenario of 1969–70 in substantial part.

I note that Treasury bills in the 90-day period were over 6 percent as of yesterday. This is an indication of the direction of interest rates. I note that the prime rate jumped a half of 1 percent yesterday to 6¾ percent.

The scenario is going to be tight money, high interest rates, and a recession, and inflation is the No. 1 problem. I believe that we have a responsibility to do something about it. It seems to me that the only equitable and the only sensible approach is to take this rather drastic step and provide the kind of shock to the economy that it needs to bring about some stability.

I hope the Senate will adopt the amendment—which is a sensible one—by the distinguished Senator from Wisconsin.

Mr. PROXMIRE. I thank the Senator from Washington.

I point out that the one truly effective, widely accepted, overwhelmingly popular element of the new economic policy was the first 90 days, the freeze. It worked. Everybody could understand it. You froze prices, you froze wages, and that was it. Everybody would know whether or not the law was being abided by, and it was.

What I propose is something that goes a little further than that. This would freeze not only prices and wages but all prices as well. There was an exception, as we know, in phase I. The Cost of Living Council excepted agricultural products at the farm level. I do think, however, that there is an entirely different situation now.

In the first place, this would mean that the farmers' costs would not increase. If Senators talk to farmers, as I have, and many Senators have, this is their principal concern. Will their costs go up, especially interest rates? If they are assured that their costs are not going to rise, they are much more likely to accept this. Furthermore, there is an excellent chance that to some extent their costs would decline, and this is the reason.

I provide for a freeze on profits; and in order to make that effective, any potential increase in profits must be reflected subsequently in a reduction in prices, so that the profit increase will be eliminated. It seems to me that this is the fairest way to do it. It is a way which will benefit farmers and everybody else in the economy, and nothing would be more likely to break the inflationary cycle, as the Senator from Washington has said, than this.

Let me point out a few more things. A freeze is very essential now, because in the next 6 months we are going to have wage negotiations that will set the pattern for wages and prices for the next 3 years. These negotiations will affect 4½ million workers. By and large, they are negotiations tied to 3-year contracts. If during this period prices are rising in April, May, and June—as they surely will, unless we adopt something of this kind, in view of what happened to wholesale prices—it is going to be impossible to have a 5½ percent wage guideline. We will do well to have a 7- or 8-percent guideline. It means that the big wage increases will be in effect throughout 1973, 1974, and 1975. And it means continued inflation for the American economy. We will have a wage-price spiral that is going to be most serious.

Here is an opportunity for the Senate to do something effective, to benefit from the experience we had in phase I. We should recognize that phase III was a mistake, a mistake recognized by investors in this country, as reflected in the stock market, and recognized by investors abroad, as reflected in what happened to the dollar.

We have an opportunity now to show that the Senate really understands what inflation is doing to this country; that it means business; that for 6 months—not for a year, but for only 6 months—we have a freeze, during which we will be able to negotiate wage settlements on a stable basis, without reflecting the kind of overwhelming inflation we are likely to suffer.

Mr. President, I yield to the Senator from Vermont.

Mr. AIKEN. I ask the Senator from Wisconsin if he would amend his proposal so as to exempt those commodities and those articles where an increase in price is required by law. I refer particularly to the price for milk, which on March 15, as I recall, was 72 percent of parity for this month. The support price for milk by law has been increased to 75 percent of parity for the market year beginning April 1.

Mr. PROXMIRE. I agree with the Senator, and I am as concerned as he is, especially about the price of milk. I provide:

The President may make such exceptions and variations to the order issued under this section as may be necessary to prevent gross inequities and hardships.

That certainly would be the intention that I would have in offering this amendment.

I think the Senator realizes that once we start down the road of exceptions and try to make them on the floor, we are in trouble. By providing this kind of language, the President can act.

The Senator has me in a most vulnerable position, but I cannot modify my amendment to that effect.

Mr. AIKEN. Would the Senator interpret the amendment he proposes as exempting prices of commodities where an increase is required by the law?

Mr. PROXMIRE. I would certainly say that this was the intent of the language

I have added in modifying my amendment, yes.

I yield to the Senator from New York.

Mr. JAVITS. If the Senator is designing his amendment to really protest phase III and, therefore, to seek a return to phase II by doing the same thing that phase I did, which is what I read as his intention, would he not be better off to limit it to 90 days for that reason? If we are going to follow the pattern that we got off phase III too soon and we have to go back to phase II, should we not follow the pattern, instead of making this such a long period?

Mr. PROXMIRE. I have considered that. The difficulty is that 90 days still puts us in a situation when vital wage negotiations are going on. I think the experience we had under phase I was that it was not quite long enough, that 6 months would have been better, and I think 6 months can break the back of inflationary situations. I do not think 90 days is as likely to do so.

I am particularly concerned with what has happened with respect to the situation in wage negotiations. The auto workers would not have their settlement until September.

Mr. JAVITS. One word of reply: We had a material bulge after the 90 days. There may be a much worse bulge after the 6 months. Therefore, if the Senator wants to repeat the pattern, is it not wiser and will he not minimize the objections to it if he repeats the same pattern?

Mr. PROXMIRE. It depends on the statistics one gets. The statistics I have from the Federal Reserve of St. Louis show that the increase in prices for the first 6 months following phase I were less than they have been in the last 7 months.

Mr. STEVENS. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I have very little time.

Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. STEVENSON). The Senator has one minute remaining.

Mr. PROXMIRE. I reserve that 1 minute.

The PRESIDING OFFICER. Who yields time?

Mr. STEVENS. Mr. President, will the Senator from Alabama yield me 1 minute?

Mr. SPARKMAN. I yield.

Mr. STEVENS. I ask the Senator from Wisconsin this question: Can he tell me what happens to the contracts that come up for negotiation in this 6-month period? I am concerned about the Teamster contract. It is the largest organized labor unit in my State. What would happen to them in this period, in terms of this freeze? Would they be able to go ahead and negotiate the contract and obtain an increase, and if so, when would it become effective?

Mr. PROXMIRE. No. 1, they can go ahead and negotiate an increase, and I think the atmosphere would be far better and far more conductive to a noninflationary settlement.

No. 2, the settlement could not go into effect until after the freeze is up.

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

Mr. SPARKMAN. I yield 5 minutes to the distinguished Senator from Texas.

Mr. TOWER. Mr. President, imposition of a wage, price and rent freeze at this juncture would be extremely unwise. The purpose of the 90-day freeze begun on August 15, 1971 was to break the inflationary psychology that prevailed at that time, and to provide a period of time to develop a more flexible system of controls that could endure for a time while some of the major cost-push forces generated by the earlier rapid inflation were restrained.

At the end of the 90-day freeze on November 1971, a number of pressures for price and wage adjustments were building up. Labor cost increases held up by the freeze, for example, went into effect at the end of the freeze and these increased costs were reflected in part by a more rapid initial increase in prices than occurred later in phase II of the economic stabilization program. In addition, the Pay Board, in part in response to amendments passed by the Congress to the Economic Stabilization Act, provided for retroactive payment of many of the wages that fell due during the course of the freeze. This retroactive payment of pay increases that fell due during the freeze tended to unravel much of the reduction in inflation that would otherwise have occurred and contributed to the more rapid initial increase in prices immediately after the freeze.

A freeze at this time would serve no purpose in terms of planning a more flexible stabilization program. The stabilization program currently applicable to the economy was developed as a transition from the more rigid mechanical rules of phase II to a more flexible but effective program for stabilizing prices without the distortions and administrative burdens that would have been associated with the continuation of the more mechanical rules of phase II.

In considering the advisability of a freeze at this time, it is important to recognize that there are other goals for the economy and the society in addition to price stability. These goals include continuing growth in output and employment, efficient use of existing resources and growth of real earnings of workers. A freeze that extended over any considerable period of time would tend to impede growth, result in inefficient resources usage if prices were not permitted to adjust in response to changing circumstances, and would provide no increases in real earnings for workers. Under the economic stabilization program, the buying power of an hour's work by a typical rank and file worker has increased by approximately the same percentage that productivity has historically increased over the long term.

This means that productivity gains in the economy have been fully shared by workers. Under a comprehensive freeze on wages, prices, profits, rents and other components of the national income, there would be no provision for any sharing by workers, business or any other segment of the society in increased productivity. In fact, of course, the existence of the freeze for any considerable period of time might well so disrupt normal transactions in the production and consumption process that no further productivity gains might occur. Increased productivity, however, is the only viable long-term source of real income gains for workers, and we must take care to permit the price system to operate in such a way that we achieve continuing growth in productivity, output and employment in order to increase the consumption available for the various segments of society and assure that these productivity gains are distributed in an equitable manner.

Mr. President, I urge the defeat of the ill-considered amendment by the Senator from Wisconsin. I say "ill-considered" but I believe he is honest and sincere in wanting to stop inflation, but certainly the evils that would result from this amendment outweigh any possible salubrious effect it would have on the economy.

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

Mr. SPARKMAN. I yield 1 minute to the Senator from Vermont.

Mr. AIKEN. Mr. President, I have two questions that come to mind. First, would this affect any future contracts made by the Department of Defense for airplanes or other supplies necessary to our national security, and, second, would it apply to commodities which are sold to foreign countries? If it does not apply, it seems to me that Japan would be in a position to purchase all the lumber we have in this country, and they are doing a pretty good job of it now.

Does it apply to contracts let by Government agencies, and particularly the Department of Defense, and does it apply to commodities which are sold to other countries or industries or businesses in other countries?

Mr. SPARKMAN. Perhaps the Senator from Wisconsin should answer the Senator's question. I think the answer is no in both instances.

Mr. AIKEN. Why not?

Mr. SPARKMAN. I do not think it would control cost overruns, either.

Mr. AIKEN. Does the Senator mean other countries could bid 5 percent more for scarce commodities, like lumber in this country, and get away with it?

Mr. PROXMIRE. I would ask that the Senator read the last three lines of my amendment.

The PRESIDING OFFICER. Who yields time? The Senator's time has expired.

Mr. SPARKMAN. I yield 1 minute to the Senator from Vermont.

Mr. AIKEN. The last three lines of the amendment state:

> The level established under this section shall be the highest applicable level in the nearest preceding 30-day period in which such transactions did occur.

I am reading from the amendment as originally introduced.

Mr. SPARKMAN. Mr. President, if the Senator from Wisconsin——

Mr. TOWER. Mr. President, regular order.

The PRESIDING OFFICER. The time is charged equally against both sides.

Mr. SPARKMAN. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. SPARKMAN. Mr. President, I would like to use that time just to say what it would do. It would turn the clock back to August 1971, when the freeze went into effect. We had that freeze, and I think everybody was pleased to see it, but I think everybody was pleased also to see us move into phase II. We made progress under phase II. We did not do everything we wanted to have done, but we made progress.

Now, the proposal is to move away from a controlled economy and move more toward a free economy. That is what this bill that we have here seeks to do. It has not been severely damaged by amendments during the course of debate in the Senate. I hope the amendment will not be agreed to because it would turn back the clock and do damage to what we are trying to do, and that is to move away from a controlled economy to a free market.

Mr. PROXMIRE. Mr. President, do I have 1 minute remaining?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. PROXMIRE. Mr. President, I would like to use that time to say, first, there will be a sharing of productivity gains. It would be shared by 200 million consumers in this country because as productivity goes up prices would have to go down to eliminate that increased profit. As far as Government contracts are concerned and Government authority to put into effect control on exports, the President has that authority under the present law.

Furthermore, I call to the attention of the Senate the savings clause at the end of the amendment which states:

> The President may make such exceptions and variations to the order issued under this section as may be necessary to prevent gross inequities and hardships.

Why would a farmer or a producer sell to Japan when he could not sell at a higher price? We do not permit him to sell at a higher price under my amendment. Furthermore, the President has the capacity to limit exports under the present law.

The PRESIDING OFFICER. All time on the amendment has expired. The yeas and nays have been ordered. The question is on agreeing to the amendment as modified. 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 Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Montana (Mr. MANSFIELD), the Senator from Louisiana (Mr. LONG), the Senator from Minnesota (Mr. MONDALE), the Senator from Missouri (Mr. SYMINGTON), are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE), is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY) the Senator from Illinois (Mr. PERCY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

The result was announced—yeas 36, nays 51, as follows:

[No. 55 Leg.]

YEAS—36

Abourezk	Eagleton	Metcalf
Allen	Eastland	Montoya
Bayh	Hartke	Moss
Bentsen	Haskell	Nelson
Bible	Huddleston	Nunn
Biden	Humphrey	Proxmire
Burdick	Inouye	Randolph
Byrd, Harry F., Jr.	Jackson	Ribicoff
	Kennedy	Stevenson
Byrd, Robert C.	Magnuson	Talmadge
Cannon	McGee	Williams
Chiles	McGovern	
Clark	McIntyre	

NAYS—51

Aiken	Fong	Packwood
Bartlett	Gravel	Pearson
Beall	Griffin	Pell
Bellmon	Gurney	Roth
Bennett	Hansen	Saxbe
Brock	Hart	Schweiker
Brooke	Hatfield	Scott, Pa.
Case	Hathaway	Scott, Va.
Church	Helms	Sparkman
Cook	Hollings	Stafford
Cotton	Hruska	Stevens
Curtis	Javits	Taft
Dole	Johnston	Thurmond
Domenici	Mathias	Tower
Dominick	McClellan	Tunney
Ervin	McClure	Weicker
Fannin	Muskie	Young

NOT VOTING—13

Baker	Hughes	Percy
Buckley	Long	Stennis
Cranston	Mansfield	Symington
Fulbright	Mondale	
Goldwater	Pastore	

So Mr. PROXMIRE's amendment (No. 39), as modified, was rejected.

Mr. TOWER. Mr. President, I move to reconsider the vote by which the amendment was rejected.

Mr. SPARKMAN. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The bill is open to further amendment.

If there be no further amendment to be proposed, the question is on agreeing to the committee amendment in the nature of a substitute, as amended.

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

The PRESIDING OFFICER. The question is on the engrossment of the amendment and the third reading of the bill.

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

The bill was read the third time.

Mr. HRUSKA. Mr. President, we have before us a bill to amend the Economic Stabilization Act, which, among other features with which I disagree, would empower the President to establish priority of use and an allocation system of supplies of petroleum products and crude oil.

Needless to say, such a substantial departure from our free market system is a most serious step which should be carefully considered and evaluated on the basis of the best possible presentation of evidence and conflicting views.

Therefore, I am distressed to find that this particular provision came before us without a hearings record, without presentation of the position of the administration, and without the opportunity for consumers and the thousands of businessmen who may be affected by this legislation to make their views known. As a member of the Antitrust and Monopolies Subcommittee of the Judiciary Committee, which has been conducting a continuing review of competition in gasoline marketing, I am particularly concerned that the advice of our subcommittee has not been sought on a measure ostensibly designed "to maintain and promote competition in the petroleum industry" and "to prevent anticompetitive effects."

Whether or not such hasty and uninformed legislative procedure might be justified at a time of real crisis, I cannot condone it when the only reason presented for immediate action in the committee report is that "it is now being predicted that a widespread gasoline shortage may well develop in the late spring or early summer."

I find it alarming that the unknown authors of these dire predictions—predictions which, I might add, are hotly disputed by many knowledgable oil people—can force the Senate to flee in disarray from its responsibility to investigate this matter and provide the Executive with the necessary legislative guidance to deal with whatever real emergencies may arise.

The very vagueness of this provision reflects the unseemly haste with which we have been confronted with it. There is nothing here which will tell the President when he should start invoking bureaucratic controls over the petroleum industry and when these controls should be lifted. There is nothing to guide the President on how the control system should be formulated, on who should create, administer and enforce controls, on the role to be accorded to State and local officials in setting priorities, or on coordination between these control procedures and the actions of the Interior Department. There is nothing to insure that those who will be affected by the proposed controls will even be granted a hearing where their rights can be asserted.

Despite the fact that this provision is declared to be directed at "anticompetitive effects," we do not know what type of "competition" is meant. There has been no analysis of the effect of controls on competition or of the potential ouster of the protections of the antitrust laws by bureaucratic regulation.

Would the proponents of this provision deny the fruits of foresight to the thousands of independent jobbers and dealers who have made, and paid for, contractual arrangements to safeguard against tight supply? Would they desire to use Federal allocation of petroleum products as a thinly disguised mechanism for dividing markets contrary to the most fundamental precepts of the Sherman Act? Would they deny a sup-

plier the right to select his customers on valid economic grounds or force him to tangle with complex bureaucratic machinery every time he terminated a customer who failed to pay a bill? Is it constitutional to impair a legal and valid contract for delivery of commodities in this fashion?

The Antitrust and Monopolies Subcommittee has been holding on-going hearings on gasoline marketing practices for some time. At our express request, the Federal Trade Commission has also been engaged in a study of gasoline marketing. The Attorney General, I am confident, has equally important views on the competitive aspects of petroleum marketing.

The views of the Attorney General, the Federal Trade Commission and other interested parties could be evaluated by our subcommittee in the light of its own expertise in petroleum marketing. I am certain that, based on these views, the subcommittee could give the Senate valuable guidance on the competitive aspects of any necessary regulation of petroleum products. I think that it is only fair to add that other knowledgeable committees—I think of Senator JACKSON'S for one—could and should also provide valuable counsel on this matter.

Mr. President, a number of the Members of the Senate, including some of the proponents of this provision, have expressed great concern over an alleged usurpation of congressional authority by the executive. If we are to grant these broad, indefinite and virtually uncontrolled powers to regulate a vital major industry to the President, when he has not even asked for them, without even hearing or evaluating the justifications for such an action, I think we will indeed have abdicated a substantial share of the great responsibility which the Constitution placed upon us.

Mr. PERCY. Mr. President, my central interest in this and the 1971 amendments providing authorities for control of wages and prices has been to improve national productivity. It has been my belief that through improvements in productivity we will make major advances in our efforts to control inflation. Such productivity improvements can come from many sources: increased investment in new plant and equipment and in research and development; new methods as simple as the standardization of shipping pallet sizes; and increased worker motivation through job redesign and through systems of pay incentives for increased productivity.

Mr. President, during our consideration of the 1971 amendments to the Economic Stabilization Act, in December 1971, I offered an amendment which was intended to provide incentives for increased productivity at the plant level. This amendment, which is section 203 (f) (3) of the act, provided that increased wages and salaries paid in conjunction with employee incentive pay programs should be exempt from wage controls. The amendment, which was cosponsored by Senator JAVITS, Senator RIBICOFF, and Senator PROXMIRE, was adopted unanimously by the Senate and accepted by the House.

As we approached consideration of this legislation renewing the authorities in the 1971 Economic Stabilization Act amendments, I asked the staff of the Cost of Living Council to provide information on the Pay Board's and COLC's experience under what they have called the "Percy productivity amendment." The amendment was finally implemented by the Pay Board in formal rules and regulations issued on June 22, 1972.

According to the records of the Pay Board and the Cost of Living Council, 214 applications have been made for wage exemptions under the plan, 84 of which have been approved. That a large number of plans have not been accepted by the Board and Council is a significant fact. The purpose of my amendment was to exempt bona fide incentive pay plans designed to provide an incentive for increased productivity by the productive unit as a whole—either plantwide or departmentwide—by especially rewarding such increased productivity. It was intended as an encouragement to the development of worker teams and joint worker efforts to increase their output. It was not intended to be a disguise for wage increases greater than the standard 5.5-percent wage guideline imposed during phase II.

I am pleased that the amendment has proven useful in actual practice. Mr. Robert C. Scott, vice president of the Eddy-Rucker-Nickels Co., of Cambridge, Mass., has indicated that the plan has "provided an avenue for both increased worker incomes and increased corporate profits without an inflationary thrust." The Eddy-Rucker-Nickels Co. specializes in the design, start-up, and operation of productivity incentive schemes. Mr. Scott said that:

> Had Phase II regulations been continued in active effect, this one amendment would have been the sole route by which companies suffering from specific skill or labor shortages could have attracted labor to meet their rising business demands. It is most essential that this particular passage remain in the extension of the Economic Stabilization Act.

The list of firms whose incentive wage plans have qualified under the Percy amendment includes companies from all parts of the country, many of which we would recognize as major industrial corporations, as well as many smaller companies. I ask unanimous consent that this list of 85 qualifying plans of over 75 companies be included in the RECORD.

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

COMPANIES WHICH QUALIFIED UNDER THE PERCY PRODUCTIVITY AMENDMENT TO THE ECONOMIC STABILIZATION ACT AMENDMENTS OF 1971

Buffalo Courier Express, Buffalo, N.Y.
Republic Steel Corporation, Cleveland, Ohio
Island Creek Coal Company, Washington, D.C.
Carpenter & Paterson, Cambridge, Mass.
Kit Manufacturing Company, Long Beach, Calif.
Festival Homes of Texas, Hillsboro, Tex.
Grayline Housewares, Chicago, Ill.
Atlantic Gulf & Pacific, Bloomfield, N.J.
Mason Candlelight Company, Andover, Mass.
Prowler Industries of Crawfordsville, Crawfordsville, Ind.
Haeger Potteries, Inc, Chicago, Ill.
Havenstein and Burme, Minneapolis, Minn.
Volkswagen Mid-America, St. Louis, Mo.
Kennington, Ltd., Inc., Beverly Hills, Calif.
Jamesbury Corporation, Worcester, Mass.
Action Industries in Dalton, Dalton, Ga.
Barrington Homes of Haines City, Haines City, Fla
Longines Symphonette, New York, N.Y.
Dana Corporation, Toledo, Ohio
Indian Head, Inc., New York, N.Y.
Mead Paperboard Products, Dayton, Ohio
Frontier Airlines, Inc., Denver, Colo.
Johns-Manville Corporation, Denver, Colo. (two plans accepted)
Kaiser Steel Corporation, Oakland, Calif.
Mead Containers, Cincinnati, Ohio
Northern Natural Gas, Omaha, Nebr.
Seitz Packing Company, Inc., St. Joseph, Mo.
Swanson Company, Phoenix, Ariz.
Winderness Ind., Inc., Merced, Calif.
Anchor Hocking Corporation, Lancaster, Ohio
Pace-Arrow, Inc , Ontario, Calif.
Broadmore Homes of Ohio, Bowling Green, Ohio
Fleetwood Enterprise, Riverside, Calif. (two plans accepted)
Kansas City Bifocal, Kansas City, Mo.
Timken Company, Canton, Ohio (five plans accepted)
Ametek, Paoli, Pa.
Basic-Witz Corporation, Richmond, Va.
Beatrice Foods Corporation, Champaign, Ill.
Middleboro Tanning Company, Chicago, Ill.
Fleetwood Homes of Kansas, Lawrence, Kans.
Food Markets, Westchester, Ill.
Hardees Food Systems, Rock Mount, N.C.
Lenon, Inc., Trenton, N.J.
Cyclops Corporation, Titusville, Pa.
Transamerica Homes Corporation, Oxford, N.C.
Fleetwood Homes of Tennessee, Westmoreland, Tenn.
GTE Sylvania, New York, N Y.
Sibley Machine & Foundry, South Bend, Ind.
Stanley Furniture Company, Hickory, N.C.
Modine Manufacturing, Racine, Wis.
Russell, Burdsall & W., Port Chester, N.Y.
Fort Plain Packing Company, Fort Plain, N.Y.
Timken Company, Canton, Ohio.
Bona Allen, Inc., Buford, Ga.
Rochester Bronze and Alloy, Rochester, N.Y.
Project Heating Company, Louisville, Ky.
Beech Aircraft Corporation, Wichita, Kans.
Huntington Alloys Division, Huntington, W. Va.
Lincoln Electric Company, Cleveland, Ohio.
Chase Brass & Copper, Cleveland, Ohio.
Pacific Intermountain, Oakland, Cal.
Packaging Corporation of America, Evanston, Ill.
Johnson & Johnson, New Brunswick, N.J.
3M Company, Freehold, N.J.
Jenn-Air Corporation, Indianapolis, Ind.
Slickcraft Boat Division, Holland, Mich.
Rochester Corporation, Culpeper, Va.
Aloas Cutlery Corporation, Olean, N.Y.
PBI Industries, Inc., Pittsburgh, Pa.
American Eagle Life, Morristown, N.J.
Virgo Mfg. Company, Los Angeles, Cal.
AMI Micro-Products, Santa Clara, Cal.
Kaiser Steel, Oakland, Cal.
Columbia Tool Steel, Chicago Heights, Ill.
Kroehler Mfg. Company, Naperville, Ill.
Republic Steel Corporation, Cleveland, Ohio.
Hendrickson Tandem, Butler, Ind.

Mr. PERCY. Mr. President, I am pleased that the committee has seen fit to retain this provision in the law. During phase III, the reporting requirements for the installation of productivity plans

will be limited to category I firms—those with 5,000 or more employees—and to firms in the three industries under mandatory controls, that is, food, health services, and construction.

Mr. President, my interest in the 1973 amendments to the Economic Stabilization Act is also focused on productivity.

First, I understand that section 4 of the 1971 amendments, which established a mission for the National Commission on Productivity, will be reported by the Banking Committee as a separate bill when the Subcommittee on Production and Stabilization, of which Senator JOHNSTON and Senator TAFT and respectively chairman and ranking minority member, finishes its consideration and reports the bill.

Section 4 of the 1971 amendments was an amendment proposed by Senator JAVITS and myself, and under it the National Commission on Productivity has, during the past year, significantly expanded its staff and its range of activity. One of its most useful efforts in the past year has surely been a special study of the food industry which was begun on July 13, 1972, at the request of the President. The purpose of the study was to consider "ways in which improved productivity could be stimulated in the food sector" and to develop "ways by which measures to increase productivity growth in the food sector could be implemented." The purpose of the study was clearly to provide ways to reduce food prices through productivity increases across the broad spectrum of the food growing, processing, retail and transportation system.

Based on the work of a number of special panels—comprising more than 200 experts from industry and Government—set up to study various aspects of the Nation's food supply system, the staff of the National Commission on Productivity prepared an extremely interesting and instructive report summarizing the findings of the panels and making a number of very important conclusions.

I ask unanimous consent that at the close of my remarks the text of this report be included in the RECORD.

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

(See exhibit 1)

Mr. PERCY. Mr. President, the central finding of this major study was that while significant productivity gains had been achieved separately in the farming, food processing, and food retailing businesses, that a major drag on food industry productivity, and thus a major obstacle to lower prices for food, is the lack of coordination among the different sectors of the food industry, and particularly the clash of different, often contradictory regulations of food and food processing by local, State and Federal Governments.

For example, the dairy farmer may be aware of the consumer's desire for more low fat milk, but he will do little as long as milk prices are determined more by butterfat content based on standards set by processors and the Government, than by protein level.

Cattlemen respond to the prices paid for beef grades, so they will not raise leaner animals—which eat less and grow to market weight sooner—if Government standards do not provide price incentives for lean beef.

Apples are now packaged in 40 different shapes and sizes, none of which fit the standard grocery shipping pallet.

The 8,000 most common items in the warehouse are packaged in 2,650 different sizes, thus making it difficult if not impossible to develop automated food warehousing.

The National Commission's staff report concluded:

> The overall picture presented in the survey was that of a number of separate, complex industries, each heavily dependent on one another, each constantly seeking to improve by making better use of its resources. *But among these firms and organizations in this interrelated industry, individual efforts of firms to maximize their own productivity were often negated or offset by factors which were not under their control. There is room for a great deal more system-wide coordination. There also is room for more assistance from government, without breaching the boundaries of the free enterprise system.* (Emphasis added).

There are five major areas of opportunity for productivity improvement identified by the study. Each is explained, and documented with examples, in the body of the report. Briefly, they are:

First. Elimination of Federal, State and local government regulations that impede productivity. For example: several States require carrots to be sold in clear plastic bags. Out-of-State suppliers are reluctant to comply, so that local merchants must repackage the carrots, resulting in higher prices. Some States prohibit the bulk shipment of commodities such as lettuce and grapes, which discourages innovative shipping methods, and increases costs.

Second. Rail transport must be improved. The Commission task forces documented the extremely poor productivity, increasing cost, and slower and slower delivery times of our rail system. Rail rates for fruits and vegetables, for example, have increased 33 percent since 1967, according to the study. The study identified a number of obstacles to improved rail transportation productivity. One has been railroad car availability, on which the Senate has already acted this year. Another is more reliable schedules. The Commission study found that particularly for fresh produce, "enormous productivity gains could flow from an improved transportation system, not only from faster service but from the more efficient packaging and handling that it would make possible." It is ironic if not tragic that the Nation should be asked to bear a new railway wage settlement that is apparently well beyond the wage guideline and that, in light of the facts about railway productivity expressed in this study, seems entirely unrelated to any gains in real output by the railroads.

Third. Implementation of farm operation changes to increase productivity. The Commission found that there is much room for increasing productivity in farm operations, mainly in the area of gearing grading and other product standards to modern market demands and greater efficiency. An example given by the Commission is cheese standards. In order to stabilize markets when cheese is in excess supply, the Commodity Credit Corporation buys cheese in only 40-pound blocks. This was a sensible size when most of the handling of stored cheese was done manually, but is now obsolete. It is estimated, the study reported, that as much as 2 percent of the processing costs could be saved if the CCC purchased in the most economical size. This might appear to be a fractionally small amount, but over time could result in substantial savings.

Fourth. Clarification of antitrust regulations. The task forces found that because of uncertainty over the scope and interpretation of the antitrust laws by the relevant Federal agencies, opportunities for coordinated efforts to improve productivity are not being grasped by the food industry. For example, it is estimated that 40 percent of the trucks on the Nation's highways are running empty because of truck "backhaul" restrictions imposed by Government regulations and industry practices. The saving could be $250 million a year in trucking costs if this problem were solved by joint intra-industry agreements, according to the study.

Fifth. Industrywide project in research and development, and marketing. The study found that individual firms could not afford to invest the capital required to take advantage of the potential opportunities to improve productivity, even though the benefits to the industry as a whole might be substantial. An example is the fishing industry. There are apparently very substantial sources of certain kinds of crab, shrimp, clams, and fish that are not being fished because they are unknown and there is no market demand for them. The study found that "the largest potential addition to our seafood capabilities is the jack mackerel with a potential catch of 1,500 million pounds if popular edible forms can be developed." Such development is beyond the capacities of the present industry, and needs governmental assistance.

The National Commission staff concluded from the study and reports of the task forces that the hundreds upon hundreds of instances for productivity improvement at every level of the food supply system—only a very few of which are mentioned here as examples, are the result of individual decisions made in single industry sectors.

There is now no single entity, Government or private, with responsibility to maintain an overview of these problems and to force improvements. Government initiatives are necessary to catalyze groups both inside and outside Government to begin the job of removing these obstacles to productivity.

Mr. President, I think that the findings of the Commission's study are important and should be implemented, and in order to provide a continuing effort to implement its findings, I will suggest to the Subcommittee on Production and Stabilization language to give the National Commission on Productivity a continuing responsibility for monitoring and evaluating efforts to improve productivity in the food industry.

My objective is not to let this excellent initiative of the Productivity Commission be wasted. I believe that the current situation of seemingly uncontrollable es-

calation of food prices demands an intensive effort by all of the concerned departments and agencies. The possibilities for savings for consumers are so substantial both in the short and long run that I consider this Government initiative not only necessary but imperative.

EXHIBIT 1

PRODUCTIVITY IN THE FOOD INDUSTRY: A PRELIMINARY SURVEY OF PROBLEMS AND OPPORTUNITIES

(A report by the staff of the National Commission on Productivity)

ACKNOWLEDGMENT

The National Commission on Productivity wishes to express its appreciation to the hundreds of busy people who have carried out this survey putting the common interest above personal concerns. In particular our thanks to the following for their assistance in organizing the Task Force.

Mr. Clancy Adamy, National Association of Food Chains.

Dr. George Brandow, Penn State University.

Mr. Dewey Bond, American Meat Institute.

Mr. Frank Fitzsimmons, President, International Brotherhood of Teamsters.

Mr. Bun Gladieux, Grocery Manufacturers Association.

Mr. George Koch, President, Grocery Manufacturers Association.

Mr. William Kuhfuss, President, The American Farm Bureau.

Mr. Michael Moskow, Assistant Secretary of Labor.

Dr. Don Paarlberg, Director, Agricultural Economics, USDA.

Dr. Ervin L. Peterson, Administrator of Agricultural Marketing Service, USDA.

Mr. Alan T. Rains, President, United Fresh Fruit and Vegetable Association.

Mr. John Scott, Master, The National Grange.

Mr. Durward Seals, United Fresh Fruit and Vegetable Association.

Mr. James Scearce, Department of Labor.

Dr. Gary Seavers, Council of Economic Advisers.

Mr. William Usery, Assistant Secretary of Labor.

PARTICIPANTS

Meat panel

James Stevenson, Chairman, Professor of Food Marketing, University of Southern California.

Cliff Cox, President, Armour Food Company.

Richard Berg, President, Hygrade Food Products.

Paul Blomberg, Economist, Swift & Company.

Robert Gill, Vice President, Industrial Relations, George Hormel Company.

Leonard Haverkamp, Vice President, Wilson & Company, Inc.

Arval Erikson, Vice President, Oscar Mayer.

Fruit and vegetable panel

Leo Polopolus, Chairman, Assistant Dean of Graduate School, University of Florida.

Gordon Kleiman, Manager, Spartan Produce.

Walt Tyndall, President, Blue Anchor, Incorporated.

Sidney Woods, President, Woods Company, Incorporated.

Maurice Feldbaum, President, Triple M Packing Corporation.

Production policy panel

Leo Mayer, Chairman, Council of Economic Advisers.

William Cromarty, Vice President, Director of Commodity Research, Cornell Rice & Sugar Company, Inc.

James Bonnen, Department of Agricultural Economics, Michigan State University.

James Youde, Department of Agricultural Economics, Oregon State University.

John Lee, Director, Farm Production Economic Division, Department of Agriculture.

Luther Tweeten, Department of Agricultural Economics, University of Wisconsin.

Vernal Brown, Farmer, Vermont, Illinois.

Grove Miller, Farmer, North East, Maryland.

Dairy panel

Ronald Knutson, Chairman, Staff Economist, Department of Agriculture.

Emerson Babb, Department of Agricultural Economics, Purdue University.

James Reeves, Vice President, Mid-America Dairy.

Frank Magruder, Senior Vice President, Finance, Howthorne-Melody.

Seafood panel

Harvey Hutchings, Chairman, Deputy Associate Director for Resource Utilization, National Oceanographic and Atmospheric Administration, Department of Commerce.

Virgil Norton, Department of Resource Economics, University of Rhode Island.

Larry Van Meir, National Canner Association.

John Peterson, President, Washington Fish & Oyster Company of California.

Retail panel

Walter J. Salmon, Chairman, Harvard Business School.

Jack Strubbe, Vice President, Kroger Stores.

Norris A. Lynch, Director, Distribution, Marketing, and Service Industries Division, Department of Commerce.

Morris Lewis, Chairman of the Board, Super Valu Stores.

Mike O'Connor, Executive Director, Supermarket Institute.

Food processing panel

Ray A. Goldberg, Chairman, Professor of Agriculture and Business, Harvard Graduate School of Business Administration.

William H. Allewelt, Jr., President, Tri-Valley Growers, Inc.

C. W. Cook, Chairman of the Board, General Foods Corporation.

Howard C. Harder, Chairman of the Board, C.P.C. International, Inc.

John E. Morrissey, Assistant to the Executive Director, National Commission on Productivity.

Eli Paul, President, John Morrell & Company.

Hugh W. Schwarz, Vice President, Corporate Planning, The Coca-Cola Company.

Labor panel

John J. Greeley, Chairman, Director, National Warehouse Division, Teamsters Union.

Donald Carter, Research and Education Director, Retail Clerks International Association.

Richard Estep, Research and Education Director, United Papermakers International Union.

Leon Schacter, Amalgamated Meat Cutters & Butcher, Workmen of America.

Bruce Millen, Office of Policy Development, Department of Labor.

Core group

Abraham Weiss, Director of Research, International Brotherhood of Teamsters.

James H. Lauth, Director, Transportation and Warehouse Division, AMS, Department of Agriculture.

George Hay, Antitrust Division, Department of Justice.

John E. Lee. Jr., Director, Farm Production Economic Division, Economic Research Service, Department of Agriculture.

Ronald Knutson, Staff Economist, Department of Agriculture.

Bruce Millen, Office of Policy Development, Department of Labor.

Kenneth Farrell, Deputy Administrator, Economic Research Service, Department of Agriculture.

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INTRODUCTION

I. Origin of the food industry productivity survey

The Chairman of the Cost of Living Council, George P. Shultz, in a memorandum on July 13, 1972, to the chairman of the National Commission on Productivity (NCOP), Peter G. Peterson, conveyed the President's directive that the NCOP "give prompt consideration to ways in which improved productivity could be stimulated in the food sector" and "develop ways by which measures to increase productivity growth in the food sector could be implemented."

The memorandum followed a series of meetings on July 5 and 6 conducted by Chairman Shultz and Donald Rumsfeld, Director of the Cost of Living Council, with representatives of food chains, producer groups, farm suppliers, food processors and wholesalers. These representatives were invited to meet to review recent food price increases and to suggest action steps which might be taken to bring about greater stability in food prices.

One of the major recommendations resulting from these meetings, Chairman Shultz stated, was that productivity improvement throughout the food industry represented one of the keys to future food price stability. While the representatives of the food industry placed particular emphasis on the need for better low cost transportation and improved materials handling, the participants believed that opportunities for improved productivity should be considered throughout the entire food industry and all its components.

II. Task force organization

In response to the July 13th directive, the NCOP formed a food industry task force, composed of management, farm, labor, government, and university officials with extensive knowledge about one or a number of industry segments and, in most cases, with long experience in one or more segments of the industry.

The task force was asked to use their collective judgment and experience to identify the opportunities in their segments of the industry with the greatest potential for productivity improvement and to develop a list of alternative ways these improvements might be achieved.

Increased productivity, for purposes of the work of the task force, was defined broadly as greater production for a given unit of input (e.g., bringing more pounds of beef to market in a shorter time using less feed, or bringing the same quantity of lettuce to market at a lower cost). To the extent that increased productivity results, the consumer ultimately will benefit from a better choice of products, from higher quality and/or from lower prices. The task force was instructed to consider that the quality of the food delivered and the quality of service involved were integral parts of this definition.

The task force's objective was not so much to generate new ideas but to draw together in one place ideas for productivity improve-

ment proposed in a variety of forums, both inside and outside the government.

To achieve this objective the 49 participants on the task force were divided into nine panels. Four panels covered each of the four major commodity groups, which account for most of the consumer's food expenditures: fruits and vegetables, meat, dairy produtcs, and seafood. Five additional panels covered industry segments divided along functional lines: farm production policy, processing, labor, transportation, and retailing. The nine topic areas covered approximately 71 per cent of the food industry, based on a measure of gross inputs.

Each panel was asked within its area of focus, to determine:

The key factors responsible for productivity growth;

The controllable factors which can influence productivity;

Specific opportunities for productivity improvements;

Alternative methods for achieving such productivity improvements.

As a first step, each panel produced a survey report. Each report was discussed and reviewed with others in the industry who were not on the task force but whose interests might be affected by the findings. Over 200 people representing major companies, labor unions, and other organizations in the food idustry took part in these reviews; this review process not only screened out some impractical suggestions, but also resulted in some additional positive contributions as well.

On the basis of the panel reports and the subsequent industry review, the NCOP staff has prepared a preliminary set of findings and recommendations, which are summarized in this report.

The staff report on the survey contains three sections: (1) a brief review of the size and complexity of the food industry, (2) a discussion of some areas covered by the panels and (3) illustrative examples of opportunities for productivity improvement in the industry identified by the panels.

Some key points are worth noting. The first is the sincere desire and concern evident from all participants to move quickly to whatever actions might be needed to improve the food industry, even where these improvements might in the short run create difficulties for their part of the industry or their organization. The second is that searching for better ways to serve the customer is not new to this industry, from the farmer to the grocery store. Each responds, however, to the incentives which govern his own operations which are not always consistent with those of the overall system.

When barriers are found, or opportunities are not taken, these are primarily the result of institutions not changing rapidly enough to meet changing times, or where the consumers' ultimate best interests are not clearly seen in the context of the individual firms or farmers' operations, rather than being the result of any individual's attempt to thwart improvements for his particular gain. The prospects for improvement are great under this kind of environment.

SURVEY REPORT

1. The food industry: An economic overview

The food industry is one of the largest complex, and most vital sectors in the American economy. After shelter, food represents the largst single cost item in the average consumer's budget. Food purchases are consumer's most frequent purchasing activity and thus changes in food prices are, by far, the most visible.

The total bill for domestically produced foods in 1971 was $111 billion, about equally divided among three major functions: growing food, transporting and processing it, and delivering it to the consumer through grocery stores and restaurants.

The U.S. food bill—1971*

[In billions of dollars]

U.S. produced farm food	$111.0
Farming	36.0
Transportation and processing	32.0
Distribution (wholesale and retail)	43.0
Imported foods	14.7
U.S. produced seafood	2.0
Imported seafood	2.3
Total	130.0

*Food consumed at home and away from home.

Meat accounts for about 29% of the average American household monthly food bill, with the remainder split among five other commodities:

Average monthly per capita expenditures for U.S. farm foods 1971

[dollars]

Meat	$13.07
Fruits and vegetables	9.41
Dairy	6.77
Bakery and cereals	5.94
Poultry and eggs	3.36
Miscellaneous	6.16
Total	44.71

(Source: Economic Research Service, U.S.D.A.)

More than 10 million people are engaged in the various parts of the food industry. They—and their wage costs—are distributed throughout the food industry in varying proportions, according to the kind of food, the amount of processing and handling, and the amount of convenience desired by the customer. Some idea of the relative importance of each of the functional areas of the industry operations for different kinds of food indicates how the value of different kinds of foods changes as the food goes from grower to market.

The breadth of the food industry is, perhaps, its dominant characteristic. It includes 3 million farms, ranging in size from a few acres operated by one family, to those that cover thousands of acres. Included also are some 23,000 food processors, some 30,000 general and merchant wholesalers, and some 208,000 retail food stores, including the "mom and pop" grocery stores as well as about 38,000 supermarkets.

The present food system has evolved gradually as individuals organized the different functions of growing, processing and distributing to take the best possible advantage of their knowledge, the capacities of their land and the strength and resourcefulness of their labor to provide the consumer with food in the desired form and at a convenient retail outlet at the time he needs it. What is particularly striking is the degree of interdependence within the food system which has occurred as different firms and sections became more highly specialized. The next section describes the effect on productivity—both positive and negative—of this increasing interdependence.

II. Productivity in an interdependent economy

The food industry's record of productivity improvement over the past fifteen years has been good. The productivity trend during this period in the farm sector of 5.8 per cent per year is the highest sustained record of improvement of any sector in the economy. Productivity growth in food processing has been 3.6 per cent and in food retailing 2.8 per cent per year, about equal to the national average of 3.0 per cent during this period.

Much of the reason for this growth level is due to the increasing specialization of each sector and to continued efforts to improve efficiency within these sectors. For example, farmers have sought better seeds and varieties with higher yields. They have steadily increased their use of horsepower to replace manpower. Better fertilizers and pesticides have been applied. The all purpose farm has gradually disappeared as farmers have increasingly specialized on those crops and livestock activities in which—because of the soil and weather conditions in their region—they have the greatest comparative advantage. As a result, California and Arizona now produce nearly half of our fresh fruits and vegetable crop of $8 billion and Minnesota and Wisconsin produce 50 per cent of the cheese products. Readying meat for market is still further specialized. Some farms raise only calves, others feed to near-market weight, and still others add only the last few hundred pounds of growth.

All of these are the result of individual decisions by farmers aimed at maximizing their own productivity and profits. The record indicates they have chosen well. Increasing specialization, however, has led to greater dependence by each sector on the operations of others. Farmers who had grown their own grains to feed their livestock, for example, and abandoned the practice because it was more economical to buy grain from those who specialized in its production, are now one step removed from direct decisions concerning the availability of feed grains. Similarly, all the farmers' efforts in planting, cultivating, fertilizing and harvesting fresh fruits and vegetables can be lost if refrigerated railroad cars arrive late at the shipping point or if the trip to market takes so long that much of the produce spoils or wilts.

The need for improved coordination among sectors of the industry and with government programs and policies is a key prerequisite to productivity improvements in the food industry. The dairy farmer may be aware of the consumer's desire for more low fat milk, but he will do little as long as milk prices are determined more by butterfat content set by processors or the government than by protein level. Cattlemen respond to the prices paid for beef grades so they will not raise leaner animals (which eat less and grow to market weight sooner) if government standards do not provide price incentives for lean beef.

Those who farm the seas face a more difficult and more urgent problem of coordination. In spite of increased investment in navigational aids and fishing equipment, the productivity of U.S. fishing fleets has declined in the last ten years. Fishermen now must go further from shore and fish more hours with more costly gear to catch the same amount of fish they did ten years ago. This indicates that we are over-fishing certain species; removing more fish than are replaced through natural processes.

No individual firm—and perhaps not even the U.S. fishing industry as a whole—has the capability to assure on its own that this year's fishing will not deplete next year's stock. This clearly is an area where the government must lead the way. No private interest will care for the oceans when everyone may fish them without limit.

While the stocks of the popular species have declined, there are great quantities of edible fish and shellfish off U.S. coasts that have never gained a foothold in the market, such as red crabs, Jonah crabs, squid, quahog clams, rock shrimp and jack mackeral. But the effort to develop consumer acceptance and, concurrently, to develop efficient location, harvesting and processing techniques for these species requires, investments on a large scale that few, if any, individual firms can afford to undertake. Harvesting these species could improve the productivity of the seafood industry and provide seafood substitutes for those species that are becoming scarce and expensive.

Twenty years ago about a fourth of all seafood products consumed in the United States was imported. Now imports are up to about 57 per cent of the total. In the first 10 months of 1972, imported fish and fish products totaled $998 million and represented a significant part of the U.S. trade deficit. Thus, improved productivity in the seafood industry would have a positive effect on the U.S. balance of payments as well as on prices.

Improved inter-sector coordination in the food industry offers opportunities for system-wide productivity improvement. It sometimes appears that efforts to maximize productivity by individual firms in one sector are counterproductive for the system as a whole. Faced with increasing labor costs, the agricultural researchers have developed fruit and vegetable varieties which allow machine picking to replace the more traditional hand-picking. The effect of most of these mechanical harvesters has been a lower cost to the consumer. In some instances however, the resultant gain to the grower may be more than offset by processors' losses due to the increased manhours required to find and discard damaged immature or otherwise unsuitable fruit that hand-pickers could have discarded in the fields. Machine harvesting also dictates that transportation equipment and processing plants work at peak capacity for short periods and at low capacity at other times—thereby reducing productivity for haulers and processors. Grower-processor coordination at harvesting, crop varieties, and processing needs must be continually improved.

Another example in which coordinated inter-sector industry efforts could lead to improved productivity is in materials handling. Much of the effort of men and machinery expended in the food chain that links the farm to the consumer is concentrated on handling operations. A simple food item like an orange is handled 17 separate times from tree to table. More productive material handling equipment, however, requires minimizing the number of sizes and shapes to be handled. Modular retail shelves must await modular packaging. (Apples are now packed in 40 different shapes and sizes, none of which fit the standard grocery shipping pallet.) It will be difficult to develop an automated warehouse while the 8,000 most common items in the warehouse are packaged in 2,650 different sizes. Work on standard packaging for shipments goes slowly, however. Processors, for example, have developed standards for width and breadth of shipments but have made no progress in three years on height and overlap standards.

The largest single potential improvement in meat processing operations is the stabilization of the supplies of live animals to the meat-packing plants. Economies of scale dictate large meat-packing plants to obtain low costs. Great swings in supplies occur not only on a yearly but even on a daily basis, making it impossible to obtain the economies which a steady flow of animals would allow and interrupting the incomes of the packinghouse workers as well.

Since the live animal supply is determined by the aggregate of the decisions of many thousands of farmers, the meat-packer has been able to do little to assure his plant of the fairly constant supply he needs. Increased coordination between these sectors could result in savings of 20 to 25 per cent of processing costs, as well as providing a more dependable income for the packinghouse worker.

As in any industry, ultimate productivity growth rests heavily on labor at all stages—farm, processing, transport, distribution, and retailing. Labor in the food industry generally has had a good record of adjustment to productivity improvements. It has demonstrated a willingness to modify rules and practices to meet changing needs. Through the process of collective bargaining, companies and local unions in the food industry have, for the most part, found it possible to negotiate transitions from old to new practices that were equitable to both parties. Several areas were, however, identified where work practices impede productivity. These problems should be resolved through the bargaining process but should receive immediate attention by all parties.

Issues which have broad national implications, for example, could be more appropriately considered at a national level by labor and management to facilitate study of these problem areas which bar improvements in productivity.

Where and under what conditions centralized meat-cutting would be more productive than cutting at the local, or store level, for example, must be considered within the context of the entire meat-processing system and take into account factors of distribution, retail customer acceptance as well as compensation and training of meat cutters.

The overall picture presented in the survey was that of a number of separate, complex industries, each heavily dependent on one another, each constantly seeking to improve by making better use of its resources. But among these firms and organizations in this inter-related industry, individual efforts of firms to maximize their own productivity were often negated or offset by factors which were not under their control. There is room for a great deal more system-wide coordination. There also is room for more assistance from the government, without breaching the boundaries of the free enterprise system.

III. Five principal areas of opportunity for productivity improvement

The opportunities for productivity improvement identified by the task force fall into five major topical areas:

(a) Reduction or elimination of impediments to productivity due to federal, state and local government regulations;

(b) Improvement of rail transport of food to equal the best service of the past 20 years;

(c) Identification and implementation of agricultural production operation changes which have the grestest potential for improving productivity;

(d) Clarification of antitrust regulations to alleviate the climate of uncertainty that inhibits certain productivity improvements in the food industry;

(e) Improved industry-wide comprehensive projects in research and development and market development, perhaps with government assistance.

Some of the findings require considerable additional analysis. In addition, some are specific and technical. The examples presented in the following sections illustrate the nature of the opportunities and the complexity of the problems.

A. Federal, State and Local Regulations

As part of its responsibility to assure that the consumer is supplied food of high quality the U.S. Department of Agriculture, the Food and Drug Administration and other Federal agencies have promulgated a wide range of regulations governing the packaging, labeling, handling and grading of foodstuffs, as well as sanitation and safety standards for the farms and processing plants themselves.

State and local governments, in responding to local conditions, have instituted many regulations which may differ at times from corresponding Federal regulations. While the intent is to inform the consumer, protect him from unhealthy food and promote nutrition, it must also be recognized that the variation among federal, state and local regulations tends to impede efficiency and reduce compensation. This argues not for less vigilance on behalf of the consumer but for a greater uniformity of standards.

Since there are substantial economies of scale in most food processing operations, a single plant may produce food for distribution in a number of states. The products of a multi-state plant must conform to federal standards and, in addition, to the particular standards in each state in which the product is sold. While the variation among standards may be justified in some instances, it may place the out-of-state plant at a disadvantage compared with in-state plants, which may sell only within one locale or within one state and thus subject to a single set of regulations.

The fact that there are over 2,000 separate federal regulations applicable to food, many of which are repeated with variations by state and local jurisdictions gives an indication of the magnitude of the problem. The added costs are exacted not only in bookkeeping and management time but in countless other ways: A single change by a single state in the ingredients that were required to be listed on sausage labels was estimated, according to one panel, to cost an addtional $75,000 in labeling costs annually to processors who shipped from out-of-state plants—a cost that is normally passed on to the consumer.

The foregoing is in no way intended to represent an argument that federal standards should be chosen as the single national standard. A given state may have developed standards the federal government would be wise to adopt. Many of the variations, however, seem to favor local industry against out-of-state competition. Thus, the task force believes significant productivity gains could be made if state and local variations could be reduced to an absolute minimum. Some examples from the panel reports are:

1. *Protein Content Requirements:* One midwestern state requires that hot dogs and sausages contain a minimum of 12 per cent protein. It is difficult to achieve this protein content without adding high protein powder such as dry milk powder to processed meat. Since this state generally produces an excess of milk, dry milk powder is a readily available additive. Out-of-state meat-packers, who have not had to use such additives in the past, cannot achieve this protein standard as easily as the in-state meat-packers As a result they are forced to create special processing lines if they wish to continue to market their product in that state. The ultimate losers are the consumers of that state who no longer benefit from the price competition provided by out-of-state firms.

2. *Types of Packaging;* Several states require that carrots be sold in clear plastic bags. Out-of-state carrot suppliers are reluctant to provide different types of bags for each separate state or marketing region, and the result is an additional burden on local merchants. This translates into higher prices for the consumer.

Some states prohibit the bulk shipment of commodities such as lettuce and grapes. This enhances the ability to control shipment of these items but it discourages innovative shipping methods, which could substantially reduce costs.

3. *Inspection Requirements;* State, local and federal sanitation inspection requirements often duplicate and conflict with each other and thus impede the flow of lower priced products from one state or local region to another, or result in excess costs for the processors solely to meet the requirements there often the state or local region often duplicates an inspection already carried out at the processing plant to meet one set of standards. It is estimated that as much as a 2 percent reduction in dairy product prices could be gained by elimination of redundant state and local government inspections of milk.

B. Better Transportation

The food industry incurs some $6 billion worth of transportation costs annually in moving its products to market. These costs

have been rising rapidly. Rail rates for fruits and vegetables, for example, have increased 33 per cent since 1967. Yet, one panel reported, it takes longer to move certain food commodities by rail today from the West coast to New York City than it did 20 years ago.

The importance of reliable and economic transportation to move food from growers to processors and finally to market was consistently cited by every panel. The productivity impact of poor transportation is pervasive in the industry. Its impact is far greater than is indicated simply by the rising costs of transportation or the frustration of unreliable scheduling. Fresh produce must be put into refrigerated cars within a few hours after it is picked or it will spoil. Thus, failure to deliver a special food car to the loading point at the time it is promised can result in heavy financial losses. The grower, the processor and the retailer must all incur extra costs when they cannot schedule the timely delivery of food cars or when the cars they receive have been poorly maintained. More labor and equipment must be used. Inventory costs are higher. Loading and unloading operations are protracted. Higher losses due to damaged food, food of lower quality and shorter shelf life are all results of unreliable transportation.

Further, the history of opposition to new types of service has created a climate that tends to stifle innovation. Innovative rates and service must receive approval from rate bureaus composed of employees of the railroads that serve a given geographic area. The necessary improvement in service will not come about as long as rate bureaus require an average of one year to act on new rate proposals, and as long as the rate bureaus are without guidelines to establish where the consumers' best interests lie.

Some specific opportunities for productivity improvement include the following:

1. *Railroad car availability.*—Prompt action is required to improve the availability of railroad cars needed for the shipment of food. Food shippers report there are not enough insulated boxcars and mechanical refrigerator cars to serve their needs, yet rail fleet capacity has increased by only four per cent in the past decade and the average car is moving only 12 per cent of the time and moving with a load only about 7 per cent of the time.

The Department of Transportation has forecast that rail freight needs will increase by roughly one third between now and 1980. But railroad ownership of refrigerated cars has declined from 90,000 to 50,000 in the past five years. Moreover, more than half of those remaining are "ice" cars (without refrigeration equipment) rather than mechanically refrigerated cars and are likely to be retired soon from service. The shortage of these cars and the difficulty of obtaining them when needed has led to an increase in shipper-owned cars. Shippers apparently find it is cheaper in the long run to pay the higher costs of owning their own cars in order to be certain of having them when they need them, than it is to rent railroad-owned cars at low rates only to lose the savings through delays incurred waiting for car delivery.

The task force believes one reason the average food car makes less than 11 trips per year (compared to average of 19 trips per year for all cars) is that shippers are afraid to release cars when they are through with them and are willing to pay demurrage charges in order to assure that they will have cars available when they are needed.

2. *Reliable schedules.*—The quality of the transportation system has a major impact on the quality and quantity of fresh fruit and vegetables available to the shopper. Indeed, the fresh produce industry is a classic case of an industry whose greatest potential source of productivity gain lies in another industry—transportation. Enormous productivity gains could flow from an improved transportation system, not only from faster service but from the more efficient packaging and handling that it would make possible.

Establishment of faster and more reliable schedules could improve the ability to efficiently schedule harvesting and loading of produce at the grower end. And it would provide fresher and higher quality fruits and vegetables at the consumer end. For example, fruit is picked earlier (and will be less flavorful) if the transportation system cannot be relied upon to make prompt delivery.

Debates between shippers, growers, processors and retailers, and the nation's railroads on the reliability and promptness of service have been the subject of Congressional discussion and ICC hearings during recent years. There are so many kinds and varieties of products shipped by rail under so many different circumstances to and from so many different points that strict comparisons of rates and services are not always possible.

Nevertheless it is clear that rail service today, particularly for perishables such as fresh fruits and vegetables is much less than it could be and for some commodities that service has deteriorated sharply. The panel reported specific examples of shipper-grower complaints that: "in the fifties Bartlett pears arrived in New York from Sacramento in 6½ days after shipment. A good fraction now arrive between 8 and 11 days after shipment." "During the fifties lettuce from Arizona to Philadelphia was guaranteed rail delivery in 6 days. Many shipments now arrive in from 9 to 11 days."

While there has been an increase of approximately 33 per cent in rates in the last five years, shippers are more concerned about service than about rates. More reliable, faster service is the primary reason that so much of the perishable commodity shipments have been taken over by trucks in spite of the higher rates generally charged by truckers. Most of the service problems appear to originate in the railroads East of the Mississippi. Shipment service on the western railroads do not appear to have declined noticeably.

The emphasis here is on the need for improved service. It should be possible for most fruits and vegetables to reach the East Coast within five days. Every day of reduced travel time adds a day to the shelf life of the fruit and vegetable at the retailer, and reduces the incidence of damaged fruits. Because the unit cost of shipping fruits and vegetables is still only a small fraction of the final cost at retail, cutting wastage through the delivery of fresher (and more nutritious) fruits and vegetables could cut the cost to the consumer.

3. *Modern Equipment.*—Potentially large gains in productivity, could be made, especially on the railroads, through the introduction of new and more efficient transportation equipment that permit significantly larger volumes of product per vehicle, that would permit the self-transfer of commodities and that would reduce damaged merchandise.

The savings through improved transportation equipment are inestimable but are widely thought to be very large. The Southern Railway System, for example, introduced the "Big John" hopper car in 1961 for the transport of grain and, because of its efficiency, it resulted in improved service and a 60 per cent reduction in rail rates. That meant a significant drop in costs to producers for whom grain is a major cost factor. It meant, for example, a reduction of:

One cent per dozen in the cost of eggs;

One cent per bird in the cost of broilers;

80 cents per 100 pounds in the cost of beef;

60 cents per 100 pounds in the cost of pork.

Such innovations have been rare. One difficulty is that innovative technological ideas often need to be accompanied by innovative marketing, and the current system of setting rates and service may tend to discourage such innovation. Use of the "Big John" car was suspended after only a few months of operation and it remained out of use for 4 years while hearings were held on the potential effect of this service.

If the rate-making procedures could be modified to reduce or eliminate such delays, conceivably more innovative ideas would be stimulated.

C. Farm Operation

The programs and policies of the U.S. Department of Agriculture have an important effect on the productivity of all sectors of the food industry. The success of these policies and programs is evidenced by the high rate of productivity growth in the farm sector. Agriculture has shown the highest continuous rate of productivity growth of any sector in the economy, increasing by 5.8 per cent per year since 1950. This high growth record notwithstanding farm operations represent an area where there are many opportunities for additional productivity gain.

Readers should be aware of one aspect of farm operations which is seldom appreciated outside of agriculture. The degree of risk which most farmers accept as normal to farming operations is rarely found in other businesses. Add to the normal uncertainties of the market the uncertainties of weather, disease and blight, and it is clear that the farmer takes risks in his investment of time and effort in his farm beyond any seen in other businesses. These risks have a strong impact on his productivity. There is a strong relationship between the growth of productivity gains in farming and the reduction of risk. Much of government agricultural policy over the past forty years has had the effect of reducing risk to the farmer; (i.e., assuring him of minimum market prices for his products, stabilizing the wide swings in supply of certain crops).

Where production can be planned with some reasonable idea of the quantities which might be needed and at least a minimum price level for his products assured, the farmer is more likely to decide in favor of increased investments, and can make planting decisions on a more productive basis. Uncertainty and wide swings in market prices reduce the incentives to plant crops or raise animals, or to invest in more productive practices.

Nowhere is this risk factor larger than in the raising of meat animals. The wide price swings from season to season in this completely free market and the 2–3 year time lag between a decision to raise more or less animals for meat and bringing steers to the market (15–18 months for hogs) makes it possible for a farmer to be wiped out by events beyond his control. While most animals raised for meat are in herds of 100 or less animals, even large corporations could not afford to take the losses which could occur from guessing wrong today what price a product will bring three years from now. Hog prices in the past three years, for example, have ranged from $27 per hundred pounds down to $16.50 and now up to $34, an enormous swing in profits and losses. Farmers, processors, and consumers would be better off with more stable supplies and prices.

Our agricultural policies have acted to decrease these risks and assure stable supplies for most crops. With the increasing importance of meat in our diets, it is important that ways be found to take some of the risk in raising meat animals from the individual farmer if we expect to have steady supplies and reasonable prices. This industry needs to seek solutions to this problem.

Specific opportunities, which were identified by various panels, included:

1. *Bullock beef.*—USDA standards have a strong influence in determining the supply of any farm commodity. For many years the U.S. consumer exhibited a preference for certain characteristics in beef. These preferences are reflected in higher prices for those better USDA grades which are then reflected in farmers' efforts to produce more beef in those higher grades.

Sixty per cent of U.S. beef comes from steers, which come to market weight in about 24 months.

Although bulls gain weight faster (coming to market weight in 18 months on less feed), bullock beef is considered an inferior grade. It has a slightly darker color and is also affected by the general belief that meat from bulls is tougher and stronger in flavor than beef from steers or heifers. There is some evidence that beef from young bulls, whose flavor has not yet become strong, might be able to compete favorably with other grades for consumer purchase. The introduction of bull meat as a major factor in meat supplies would reduce the cost of bringing beef to market, and raise the productivity in beef production. This will require consumer market testing to determine standard grading for bullock beef.

2. *Cheese purchasing standards.*—Another opportunity for increased productivity reported involves modifying purchasing standards to take maximum advantage of modern processing capabilities. The Commodity Credit Corporation buys cheese to stabilize markets where substantial excesses appear. At present, the CCC will purchase natural cheese only in 40-pound blocks, a size which was sensible when most of the handling of stored cheese was done by manual labor, but which has been rendered obsolete by advanced handling methods. The most efficient size to produce, transport, and handle, however, may be much larger, depending on the cheese and the geographical area. It is estimated that as much as 2 per cent of the processing costs could be saved if CCC purchased in whatever size is most economical.

3. *Butterfat content.*—The USDA pricing of milk has historically emphasized the butterfat weight content of the fluid milk. The incentives to increase butterfat production provided by this standard has operated very successfully over the years so that in 1971 the United States produced 50 per cent more milk per cow than had been produced in 1957. However, American tastes have shifted away from fat and toward protein. As a consequence, market demand for butter and butterfat products has dropped. The result is that USDA has had to purchase substantial quantities of excess butterfat. With the increasing desire for more protein not only in the U.S. but on a world-wide basis, the protein content of milk can be viewed as a potential low-cost supply. USDA standards for milk prices could be based on protein content in addition to butterfat. This would provide a strong incentive for genetic research, and for dairymen to improve the "solids—not fat" content of milk, reducing the excess butterfat purchases required by USDA, and providing improved protein content at lower prices for consumers.

D. Clarification of Antitrust Regulations

Technological innovations in the food industry can be divided into three general categories depending on the major barrier to the innovation. Only a very small fraction require a high degree of technology, or appear to require a large effort to overcome the technological problems. The introduction of most technological innovations is paced not by the development of the technology needed but by the ability to solve the problems of marketing and consumer acceptance (e.g., a new size package or a new food spread). The third kind of innovation requires the agreement of a major fraction of those in an industry and is paced by the ability of the industry to agree on joint actions. These are primarily where the innovation concerns intermediate steps of processing and handling.

The incentives for introduction of new technology in this industry are therefore relatively weak since innovations which are placed by marketing and consumer reactions can be quickly copied by competitors, and those which require joint cooperative action may well reduce the general level of industry costs but offer no advantage to any single firm over any other.

An example of the kind of innovation which is primarily dependent on marketability is the introduction of 12-ounce frozen orange juice cans in 1960, which expanded by 100 per cent the consumer's choice of can sizes that previously had been limited to the industry's standard 6-ounce can. The savings might appear to be small; only .104¢ per ounce of concentrate. The small unit saving however represents an 8 per cent savings in total packaging costs. In an industry in which packaging represents nearly 9 billion dollars, or one-fourth of the total processing costs, even small unit changes can have a significant effect. When such innovations prove successful they are rapidly copied throughout the industry. Thus the innovative firm foots the bill for innovation while its competitors gain equally without spending as much on development and consumer acceptance.

The incentives for any firm to take the lead in introducing industry-wide innovations are even less. Standardized packaging and automated warehouses offer industry-wide savings but little advantage to the individual firm. Strengthening the industries reluctance to initiate these kinds of activities is an overriding concern about the antitrust implications of joint actions.

During the course of the review it became evident that some opportunities for coordinated efforts to improve productivity were not grasped by the industry because of concern over antitrust implications of joint actions. It is conceivable that many of the coordination efforts progressive industry spokesmen would like to undertake can, in fact, be initiated under appropriate Justice Department and Federal Trade Commission guidelines. With better understanding of Justice and FTC positions, these improvements can be made.

The following are some of the areas where the panels indicated important productivity gains might be made if the means for achieving them were clearly shown to rest within the officially permitted interpretations of the antitrust laws:

1. *Retail backhaul.*—It has been estimated that of the many trucks on the nation's highways, up to 40 per cent of them are running empty because of truck backhaul restrictions imposed by government regulations as well as certain industry practices. If those empty trucks could be filled, it would result according to some industry estimates in a savings of $250 million a year in transportation costs.

Virtually every grocery store in America is served from a grocery, produce or meat warehouse by its own truck fleet. Very often, trucks returning to the warehouse from a store delivery run empty even though they could conveniently pick up inbound shipments from manufacturers and processors that are intended for their warehouse. While some manufacturers do permit pick-ups by retail truck fleets, others refuse to permit it since they fear that the practice of giving a delivery allowance could be interpreted as a violation of the Robinson-Patman Act. In addition, there are other problems with priority and preference for delivery between retailer trucks. This might be solved by joint retailer-manufacturer meetings. These meetings, however, have not been held because many of the key participants fear antitrust restriction on such activities.

2. *Standardization of Packaging.*—The panel which focused on the retail segment of the industry reported that the lack of standardization in packaging is a serious obstacle to improved materials handling in retail stores and in warehouses. But greater standardization would require joint industry discussions which retailers are reluctant to embark upon either because of a lack of understanding of the antitrust laws or fear of a technical violation of these regulations. Manufacturers and growers are similarly inhibited. Standardization of packaging, common use of transportation, common or neutral warehousing (i.e., warehouses that serve several retailers or several manufacturers thus reducing costs) represent real potential for significant savings. But all are innovations that the panelists reported that are not put into operation in part because of concern about antitrust action.

More than 1,400 different container sizes are used by the fruit and vegetable industry alone, in contrast with European produce growers who use four.

The reason standardizations of shipping containers is important is that with only a few standard carton sizes, fully automatic warehouses would be feasible. Such facilities, according to one estimate, could result in savings of as much as 2.5 cents a case handled. And some 15 billion cases are handled annually in the food industry.

3. *Intermarket Development.*—The processing panel reported that recent attempts by farm/producer cooperatives to develop new markets or to develop products more responsive to consumer needs are hampered by the difficulty that grower co-ops have in combining with processors and retailers in joint cooperative development projects. Growers with only a single crop are at a disadvantage in trying to sponsor market development efforts since they cannot spread such costs across a variety of products. By allowing growers, processors and retailers to combine their efforts in joint marketing studies, the costs of these studies can be considerably reduced from what they would otherwise be, and, more importantly, marketing plans will consider the needs of all elements in the food chain—grower, processor, distributor and retailer.

E. *Industry Structure.*—The majority of the opportunities for productivity improvement identified by the panels fell within the fifth area of focus: the structure of the industry. In most cases, the problem was that individual firms could not afford to invest the capital required to take advantage of the potential opportunities to improve productivity, even though the benefits to the industry as a whole might be substantial. There was near unanimity among the industry representatives as to the desirability and potential impact on productivity. They felt, however, that it would be neecssary for someone to provide special leadership to initiate action. The particular opportunities identified were:

1. *Tomato purchasing practices.*—The effect of grades and standards in influencing grower and processor behavior is very strong. It is therefore important to continue revising standards as experience is developed. Tomatoes, for example, are bought on the basis of net weight. This provides an incentive for growers to develop those strains which produce the most pounds per acre for sale to processors. In the 10-year period from 1960–1970, it is estimated that tomatoes purchased by processors in California increased on the average of ten per cent by weight—but the increase was all in water content. The result of the efforts of agricultural extension centers and growers was, therefore, to add 450,-

000 extra tons of water to the 1971 California tomato pack—and to the processors' cost of purchase. But 86 per cent of tomatoes are processed, the first step of which is water removal. Hence, this "productivity improvement" is then added to the cost of drying out the tomatoes for ketchup, tomato sauce and other processed tomato products. The consumer of course ultimately paid the water bill. Of course, agricultural stations and growers are only responding to what was believed to be an adequate standard. As practical experience is developed these must be modified. Grower/processor standards based on net soluble solids should provide an incentive to growers and research extension services to produce tomatoes which give us more tomatoes for our dollar and not more water. The panel indicated that further productivity improvements could be made through better standards in other commodities as well.

2. *Seafood supply.*—As indicated earlier, the U.S. catch of desirable seafood products has not increased in the past 10 years in spite of increasing demand from consumers. At the same time, however, there appear to be large quantities of potentially marketable species which have not yet won consumer acceptance. The technology for catching these species also has not been developed. For example, last year's U.S. crab catch totaled 276 million pounds, primarily of the blue crab, snow crab and king crab. There appear to be other crab species (red and Jonah) which could double that catch if the harvesting, locating, and processing technology were developed, and if consumer acceptance were fostered. Last year's catch of shrimp was 388 million pounds, worth over half a billion dollars at retail. It appears that a potential annual catch of 25 million pounds of rock shrimp can be obtained. Quahog clams could potentially supply the market with 100 million pounds annually compared to the current total calm harvest of 83 million pounds. Many people think the quahog clam is superior in taste and flavor but because consumer acceptance has not been developed on a national basis, harvesting and locating technologies have also not been developed. The largest potential addition to our seafood capabilities is the jack mackerel with a potential catch of 1,500 million pounds if popular edible forms can be developed.

3. *Motivation of Employees.*—As the work carried out in the retail store, and in the food processing and manufacturing industry becomes more complex and more customer oriented, employee motivation has become a vital subject. Turnover in the stores covered by a Supermarket Institute survey, for example, was 14 per cent per year among cashiers and better than 10 per cent per year among meat cutters. In addition to the cost of retraining personnel where rapid turnover occurs, there are opportunities lost because of failure to motivate employees towards more productive efforts. While these industries feel strongly that employee motivation is a major factor they also feel that no single company can make the necessary investment to provide the research and the pilot studies which are needed to apply to the food industry specifically. At least one company has offered to share the benefits of their experience in trying to create more productive work for their employees and indicate the major productivity gains which they believe possible.

4. *Industry research and development.*—More research and development was cited as an acute need by industry observers in nearly every panel. For retail store operators, processors and fishermen, as for most elements involved in the food industry, the technology needed for substantial improvement would generally be considered minor by the standards of high technology industries. The problem is that there is little incentive for the individual firm to make the investment needed for many research and development opportunities because of the difficulty in capturing the profits from any innovation in an industry where new and more profitable techniques are quickly copied.

5. *Environments.*—The indiscriminate misapplication of environmental controls was frequently cited as a danger to productivity performance. All task force members agreed on the need for standards to assure that no competitive advantage is gained by those who give the least consideration to their social responsibilities. All felt that standards should be chosen only after considering effects on the entire system.

The seafood industry is particularly concerned with environmental controls, since this industry suffers the most from failure to enforce adequate environmental standards. Pollution of marine estuaries, the nurseries of sea life, is considered to be a major threat to the long-term future of the seafood industry.

CONCLUSIONS

Based on the work of the task force as outlined above, the staff has reached the following conclusions:

There is a wide variety of opportunities for productivity improvement in the food industry. But in general, there appear to be few opportunities which lie wholly within one sector of the industry.

Most of the opportunities for dramatic productivity improvement require concerted action among sections of the industry, frequently with one or more different levels of government. Because system-wide productivity improvements generally will be achieved only at a short-term cost to some individual sectors, these improvements will be difficult to obtain even over an extended period of time.

No single step will have a significant impact on productivity, but, taken together, these opportunities offer benefits which number in the billions of dollars, and offer a principal hope to restrain the growth of food prices over the long run.

The existence of these potentially important opportunities for productivity improvement does not result from conscious choice of inefficient practice on the part of any one sector. They result instead from a series of individual decisions made within single sectors to affect those factors which were deemed controllable at the time. Because there is no single entity to analyze the total industry effort of individual decisions or to advocate decisions from that perspective, opportunities for cross-sector coordination have been rarely exploited because governmental regulations and standards at all levels affect all sectors of the food industry, often to the detriment of the consumer, and because coordinated, industry-wide action is required, a government initiative with the industry will be needed to take advantage of the opportunities identified. Although the government's involvement traditionally has been primarily one of control, it could play an important and positive role, catalyzing groups both inside and outside government to begin the arduous job of analyzing in greater detail the opportunities presented here and obtaining those improvements which appear to be most desirable. If the Federal government undertakes this task, a long-term commitment will be required.

Productivity improvements, while important, must not be achieved at the expense of other national goals such as, for example, consumer safety, the environment, and protection of the workforce. The staff feels, however, that advocacy of productivity offers a way to increase quality, as well as to reduce cost.

It should be stressed that any strategy to take action in the areas outlined must consider the need for equity. To the extent that small short-term losses within a sector are required to implement larger, long-term, gains across the entire food industry, each interest group will be willing to sacrifice only to the extent that others do, and each will require that its long-term position improve.

What is needed most is a *forum* to maintain the current level of interest in productivity improvement and a *mechanism* to provide analysis and implementation, based in part on the survey findings, some of which are presented here. The most important work lies ahead, for it is easier to identify opportunities than to take advantage of them. There is within the industry—among agricultural producers, management and labor—a solid foundation of concern upon which further efforts can be based.

Mr. HELMS. Mr. President, I will vote for economic controls for this Nation, but only for one more time. I will vote for the 1-year extension of the Economic Stabilization Act, because this represents a practical step in the right direction. It is a step away from wage and price controls and toward a free market system.

It is obvious that the economic controls have had little lasting effect. They have served as a sober reminder as to how easy it is to lose our economic freedom. We lose that freedom not at the moment when controls are imposed, but long before—at the moment when we begin to disregard the laws of sound economics. When the inflationary spiral begins, our options for action are narrowed. It is not apparent at first, but gradually our choices are narrowed, until finally there are no choices left except hard choices. Unfortunately, politics is too often the art of avoiding hard choices.

Nevertheless, the ultimate hard choices finally come. As the value of our money is taken from us by inflation, there is less and less that we can do about it until the moment arrives when controls—unacceptable in a healthy economy—appear to be the most politically acceptable of our choices. The moral is that our political and economic freedoms go hand in hand.

Controls then solve nothing, but sound the knell of diminishing freedom. We must work toward a situation where we have no controls, and to do that we will have to take the difficult solutions. Inflation still persists today after nearly a year and a half of strict regulation. The international stability of the dollar has eroded to the point where we have had two devaluations within 14 months, and the international money markets, that barometer of confidence, has been giving out readings of no confidence in the present soundness of the dollar.

The real cause of our predicament is not controls or the lack of controls, or the degree of controls. The real cause is that Government continues to spend more than it takes in. Nor has the Federal Government done anything to try to reduce the accumulated national debt. The net interest alone on that debt rose from $13.5 billion in fiscal year 1972 to an estimated $14.6 billion for fiscal year 1973. The deficit expected for 1974 will increase the Federal debt held by the

public from $348.8 billion at the end of 1973 to $365.3 billion at the end of 1974. If we include debt held within the Government, the gross national debt is expected to rise from $473.3 billion on June 30, 1973, to $505.5 billion on June 30, 1974. About half of this increase is in debt held by Federal agencies and trust funds, reflecting mainly the investment of trust fund surplus receipts in Treasury debt. This amounts to nothing other than monetizing the debt, and is a prime expression of the inflationary spiral in which we find ourselves.

Nor can we overlook underlying problems in productivity. Economic instability in our system can be traced directly to the Government's policy of reinforcing and protecting nonproductive and economically parasitic units in the economy. Price and wage controls served to mask the normal adjustments which should have taken place to make our economy more efficient, and, in that respect, actually contributed to the inflationary spiral they were supposed to stop. We can try to hide from ourselves declining rates of productivity, but we cannot hide them from the world at large. Our trade deficit with more efficient nations and our balance-of-payments deficiency is increasing, rather than decreasing. Devaluation will never correct this problem.

Congress must recognize and respond to the fundamental economic realities in order to realize a healthy economic environment. These fundamental realities are, in part, that the least governmental interference with wages and prices, supply and demand, is the best governmental policy. The present bill marks a transition back to a free system. It would probably be a mistake to move suddenly from an unnatural system to a free system. Moreover, Congress must take other measures to deal with the root causes of inflation. But the present bill is a necessary step, and I support that step.

Mr. BAYH. Mr. President, I intend to support this measure, but before doing so I want to convey my very strong feeling that I do not feel this bill goes nearly far enough to deal with the critical problem of inflation that confronts us. It is the only measure before us, so I shall support it. I do so with the conviction that it is not adequately going to do the job. I wish we had a much better bill.

Mr. SPARKMAN. Mr. President, I am glad to yield back all the time I have on the bill.

Mr. TOWER. Mr. President, I thought I would use up the remainder of my time to make a little speech to the Senate. How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Texas has 39 minutes remaining.

Mr. TOWER. Mr. President, the speech will only be 39 minutes long.

Mr. President, I think that since my distinguished colleague has yielded back the remainder of his time, I will yield back the remainder of my time.

The PRESIDING OFFICER. All time has been yielded back. The bill having been read the third time, the question is, Shall the bill pass? On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The second assistant legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from California (Mr. CRANSTON), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Iowa (Mr. HUGHES), the Senator from Louisiana (Mr. LONG), the Senator from Montana (Mr. MANSFIELD), the Senator from Minnesota (Mr. MONDALE), and the Senator from Missouri (Mr. SYMINGTON) are necessarily absent.

I further announce that the Senator from Rhode Island (Mr. PASTORE) is absent on official business.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

Mr. GRIFFIN. I announce that the Senator from Tennessee (Mr. BAKER) is absent on official business.

The Senator from New York (Mr. BUCKLEY), the Senator from Illinois (Mr. PERCY), and the Senator from Arizona (Mr. GOLDWATER) are necessarily absent.

If present and voting, the Senator from New York (Mr. BUCKLEY) would vote "nay."

The result was announced—yeas 85, nays 2, as follows:

[No. 56 Leg.]

YEAS—85

Abourezk	Ervin	Montoya
Aiken	Fannin	Moss
Allen	Fong	Muskie
Bartlett	Gravel	Nelson
Bayh	Griffin	Nunn
Beall	Gurney	Packwood
Bellmon	Hansen	Pearson
Bennett	Hart	Pell
Bentsen	Hartke	Proxmire
Bible	Haskell	Randolph
Biden	Hathaway	Ribicoff
Brock	Helms	Roth
Brooke	Hollings	Saxbe
Burdick	Hruska	Schweiker
Byrd, Harry F., Jr.	Huddleston	Scott, Pa.
	Humphrey	Scott, Va.
Byrd, Robert C.	Inouye	Sparkman
Cannon	Jackson	Stafford
Case	Javits	Stevens
Chiles	Johnston	Stevenson
Church	Kennedy	Taft
Clark	Magnuson	Talmadge
Cotton	Mathias	Thurmond
Curtis	McClellan	Tower
Dole	McClure	Tunney
Domenici	McGee	Weicker
Dominick	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Metcalf	

NAYS—2

Cook	Hatfield

NOT VOTING—13

Baker	Hughes	Percy
Buckley	Long	Stennis
Cranston	Mansfield	Symington
Fulbright	Mondale	
Goldwater	Pastore	

So the bill (S. 398) was passed, as follows:

S. 398

An Act to extend and amend the Economic Stabilization Act of 1970

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 "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 industry and assure sufficient supplies of 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 striking 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 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 for the establishment of priorities of use and for systematic allocation of supplies of petroleum products including crude oil 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."

RENT STABILIZATION

SEC. 6. The Economic Stabilization Act of 1970 is amended by adding the following new section:

"§ 203A. Rent stabilization

"(a) As used in this section—

"(1) 'rental vacancy rate' has the same meaning as that adopted and employed by the Bureau of the Census in its Housing Vacancy Survey Reports for 1972 but including only low- and moderately-priced rental units;

"(2) 'low-vacancy State' means any standard metropolitan statistical area, as defined and officially recognized by the Bureau of the Census, having a rental vacancy rate lower than 5.5 per centum

among low- and moderately-priced rental units as defined by the Bureau of the Census;

"(3) 'low-vacancy period' with respect to any standard metropolitan statistical area determined by the President or his delegate to have a rental vacancy rate lower than 5.5 per centum among low- and moderately-priced rental units as defined by the Bureau of the Census, the period beginning on the day following publication of such rental vacancy rate in the Federal Register and ending on the next following day of publication in the Federal Register of a rental vacancy rate in that standard metropolitan statistical area of 5.5 per centum or higher among low- and moderately-priced rental units;

"(4) '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;

"(5) 'standard metropolitan statistical area' means any area officially so designated and recognized by the Bureau of the Census.

"(b) The President or his delegate shall make semiannual determinations of the current rental vacancy rate in each standard metropolitan statistical area and shall cause the same to be published in the Federal Register within sixty days after the date of enactment of this section and thereafter on January 1 and July 1 of each year.

"(c) Except as provided in subsection (k), notwithstanding any other provision of law, with respect to any lease of or implied contract for occupancy of a residence (other than luxury residences as defined by regulations) in a low-vacancy area entered into during a low-vacancy period, 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 and any necessary capital improvement after the beginning of the preceding period of occupancy (and not previously charged to any lessee) and allocable to that residence, and any reasonable increased costs of services and materials.

"(d) 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 during a low-vacancy period, the rent charged during the term of occupancy provided in such lease or implied contract shall not exceed the reasonable market rental value of the residence; and the rent charged during subsequent terms of occupancy shall be subject to the provisions of this section.

"(e) In any standard metropolitan statistical area which is a low-vacancy area at the first publication of rental vacancy rates pursuant to subsection (b), 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 which would be permitted during a low-vacancy period 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, which is shorter: *Provided*, That no provision of this subsection shall constitution 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.

"(f) The provisions of this section shall apply to all residential rental units except single-family dwelling units.

"(g) Nothing in this section shall be construed to invalidate the provisions of any State or local rent control laws or regulations which have been approved by the President or his delegate.

"(h) In cases where operation of this section would cause serious financial hardship 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. Exception granted pursuant to this section may be made subject to such limitations as the President or his delegate may prescribe in each case.

"(i) No lessor shall take retaliatory action against any lessee who exercises any rights conferred upon him by this section or regulations issued pursuant thereto.

"(j) 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.

"(k)(1) During the first six months after the President or his delegate first determines that a standard metropolitan statistical area has a rental vacancy lower than 5.5 per centum, the President or his delegate shall hold public hearings in the manner prescribed in section 207(c) with respect to the rental situation in such area. Such hearings shall, among other relevant matters, seek to elicit facts showing (A) the causes of the low-vacancy rate in the area, (B) the effects of such rate on rents charged in the area, (C) the extent to which rent increases in the area reasonably attributable to such rate are causing tenant hardship, and (D) the effects of such increases on the economic well-being of the area and of the Nation. Findings of fact developed at any such hearings shall be published at the conclusion thereof in the Federal Register.

"(2) Notwithstanding any other provision of this section, the prohibitions provided in this section shall not be applicable in any standard metropolitan statistical area with respect to which the President or his delegate determines, on the basis of facts developed at hearings during the six-month period as provided in paragraph (1) of this subsection, conducted pursuant to this subsection, that such prohibitions are not required in order to carry out the purposes of this title. Any such determination shall be published in the Federal Register within ten days after the conclusion of the hearings upon which the determination is based."

PUBLIC DISCLOSURE

SEC. 7. 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)(1) 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 (except for matter excluded in accordance with paragraph (2)) 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 product' 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.

"(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.

"(3) Immediately upon enactment of this subsection, the President or his delegate shall issue regulations defining for the purpose of this subsection what information or data are proprietary in nature and therefore excludable under paragraph (2), except that such regulations may not define as excludable any information or data which cannot currently be excluded from public annual reports to the Securities and Exchange Commission pursuant to section 13 or 15 (d) of the Securities Exchange Act of 1934 by a business enterprise exclusively engaged in the manufacture or sale of a substantial product as defined in paragraph (1)."

FOOD PRICES

SEC. 8. 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."

HEALTH INSURANCE PRICES

SEC. 9. Section 216 of the Economic Stabilization Act of 1970 is amended by inserting after subsection (c) (added by section 8 of this Act) a new subsection as follows:

"(d) For so long as the President maintains controls upon wages and prices in the health services field of either a mandatory or voluntary nature, 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 health insurance prices, the reasons for any such change (including an analysis of price changes for hospital and physician services, of changes in benefit packages, and of changes in health insurance administrative costs), the extent to which the change is commensurate with rates of increase permitted for physician and hospital services under regulations implementing this title, and the actions he has taken or recommends to the Congress to be taken to stabilize insurance prices."

EXTENSION OF ACT

SEC. 10. 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 move to reconsider the vote by which the bill was passed.

Mr. SPARKMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. SPARKMAN. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make technical and clerical corrections in the engrossment of S. 398.

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

TRANSACTION OF ADDITIONAL ROUTINE BUSINESS

The following additional routine business was transacted:

INTRODUCTION OF A JOINT RESOLUTION

The following joint resolution was introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. HARRY F. BYRD, JR.:

S.J. Res. 82. Joint resolution that the President create a commission for the purpose of seeking means of modernizing and reorganizing our present Federal welfare programs. Referred to the Committee on Finance.

STATEMENT ON INTRODUCED JOINT RESOLUTION

By Mr. HARRY F. BYRD, Jr.:

S.J. Res. 82. Joint resolution that the President create a commission for the purpose of seeking means of modernizing and reorganizing our present Federal welfare programs. Referred to the Committee on Finance.

INTRODUCTION OF SENATE JOINT RESOLUTION TO CREATE A NATIONAL WELFARE COMMISSION

Mr. HARRY F. BYRD, JR. Mr. President, I am today introducing a joint resolution to create a broad-based, national commission to study the welfare system of the United States and to make appropriate recommendations for modernizing it in an equitable way.

Our present welfare system needs major changes. It was enacted as a stopgap in the 1930's and is unsuited to the needs of the country today. Genuine welfare reform is essential.

But I believe that before making a major change in welfare, we had better look before we leap. We need to be sure that if we scrap the present system—and we should—we are going to get something better.

Twice before, in 1970 and 1971, I introduced resolutions identical to the one I am presenting to the Senate today. I think this proposal is even more timely now than it was on the other two occasions.

At the time of introduction of the resolutions of 1970 and 1971, Congress had under consideration the so-called family assistance plan, the proposal of the Nixon administration for revision of our welfare laws.

I was not convinced of the merits of the family assistance plan, which represented not welfare reform but welfare expansion, but it occupied the attention of the Congress at the time.

Today the welfare expansion plans of the administration have been abandoned. In a message to the Congress on March 1, President Nixon formally announced that he will not renew his request for enactment of the family assistance plan.

The Senate Finance Committee twice, in 1970 and 1972, refused to approve the welfare expansion plan of the administration. The Senate of the United States last year refused to approve it despite the fact that it was approved twice in the House of Representatives.

The President's message made clear that he has discarded this program. I commend him for discarding it.

That proposal, worked up for him by the Department of Health, Education, and Welfare, was not welfare reform at all. It was lacking in work incentives. It would have added greatly to the cost of welfare. It would have written into the law the principle of a guaranteed income. And worst of all, it would have doubled the number of people on welfare.

I think that most of us agree that what we need to do is to create job opportunities. The administration's proposal did not do this.

The administration has discarded its own program and has not brought in a new one. Not having brought in a new program, the President in his message stated—

I have directed that vigorous steps be taken to strengthen the management of the AFDC through administrative measures and legislative proposals.

The AFDC is the aid to families of dependent children section of welfare.

We do not know at this point what the legislative proposals are. But the President says that he will take steps to strengthen the management through administrative measures.

That is what needs to be done. That is what should have been done last year and the year before that and the year before that. There should be a tightening up of the administrative process. As evidence of that, I cite the President's message. Here is what the President had to say:

The administration of this program is unacceptably loose.

I made that point time after time to former Secretary of Health, Education, and Welfare Richardson, when he came before the Finance Committee—that the administration of this program is unacceptably loose.

The President went on to say:

The latest national data indicate that in round numbers one of every 20 persons on the AFDC rolls is totally ineligible for welfare; three more out of 20 are paid more benefits than they are entitled to; and another one in 20 are underpaid.

About one-fourth of the AFDC recipients, in other words, are receiving improper payments.

The fact that the President proclaims this indicates a change of attitude on the part of the administration—and is wholesome.

The President also brought out in his statement:

Misguided incentives have discouraged employable persons from work and have induced fathers to leave homes so that their families can qualify for welfare.

This welfare mess does need to be cleaned up. The President has taken steps, he said in his message, to do just that.

This will require firmness. I hope that there will be firmness on the part of the executive branch in straightening out the lax administration of our welfare programs.

I approve of the plan for improving welfare administration. But I think we must face the fact that sooner or later—and I believe it should be sooner—we need to make some fundamental reforms in the welfare system itself.

It seems clear to me that the labors of the Government to produce an equitable new system—one that focuses on job opportunities, provides adequate work incentives, and reduces rather than expands the welfare rolls—have been ineffectual.

The best efforts of the administration from 1969 through 1972 produced only variations of the family assistance plan, which was unacceptable because it was not genuine reform.

Now, I believe it is time to summon to the solution of this great problem some of the best minds in the Nation outside the Government. The commission which my resolution would create would bring six eminent private citizens to serve with representatives from the administration and the Congress.

I believe a broad-based commission of this kind can bring fresh thinking from outside the Government to the welfare problem, at the same time taking advantage of the necessary administrative and legislative expertise of the Government representatives. I look especially to the public members for innovative suggestions.

Of course, we cannot be sure that the commission can come up with the solutions we need. But I do not believe that we can afford to stay on dead center in welfare.

We need to act now to formulate new plans in welfare—plans that will represent genuine reform. I believe that the resolution which I am introducing today presents an opportunity for constructive action.

Mr. President, I ask that my resolution be appropriately referred, and that the text of the resolution be printed at this point in the RECORD.

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

S.J. RES. 82

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President create a commission for the purpose of seeking means of modernizing and reorganizing our present Federal welfare programs.

SEC. 2. (a) The Commission on Welfare (hereinafter referred to as the "Commission") shall be composed of—

1. The Secretary of Health, Education, and Welfare.

2. Four Members of the Senate, no more than two of whom shall be members of the same political party, and who shall be appointed by the President of the Senate.

3. Four Members of the House of Representatives, no more than two of whom shall be members of the same political party, and

who shall be appointed by the Speaker of the House of Representatives.

4. Not to exceed six public members appointed by the President.

(b) The President shall designate one of the members to serve as Chairman and one to serve as Vice Chairman of the Commission.

(c) The majority of the members of the Commission shall constitute a quorum, but a lesser number may conduct hearings.

COMPENSATION OF MEMBERS OF THE COMMISSION

SEC. 3. (a) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States.

(b) Members of the Commission who are not officers or full-time employees of the United States shall each receive $100 per diem when engaged in the actual performance of duties vested in the Commission.

(c) All Members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5 of the United States Code for persons in the Government service employed intermittently.

DUTIES OF THE COMMISSION

SEC. 4. The Commission shall conduct a detailed inquiry into the Federal welfare program which shall include the following:

1. The interrelationship of the various existing Federal welfare programs.

2. The feasibility of comprehensive welfare legislation to insure the various executive departments are not working at cross purposes.

3. The effect of State supplemental payments and other State welfare benefits.

STAFF OF THE COMMISSION

SEC. 5. (a) The Commission shall appoint an Executive Director and such other personnel as the Commission deems necessary without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service and shall fix the compensation of such personnel without regard to the provisions of chapter 51 and subtitle II of chapter 53 of such title relating to classification and General Schedule pay rates: Provided, That no personnel so appointed shall receive compensation in excess of the rate authorized for GS–18 by section 5332 of such title.

(b) The Executive Director, with the approval of the Commission, is authorized to obtain services in accordance with the provisions of section 3109 of title 5 of the United States Code, but at rates for individuals not to exceed the per diem equivalent of the rate authorized for GS–18 by section 5332 of such title.

(c) The Commission is authorized to enter into contracts with public agencies, private firms, institutions, and individuals for the conduct of research and surveys, the preparation of reports, and other activities necessary to the discharge of its duties.

GOVERNMENT AGENCY COOPERATION

SEC. 6. The Commission is authorized to request from any Federal department or agency any information and assistance it deems necessary to carry out its functions; and each such department or agency is authorized to cooperate with the Commission and, to the extent permitted by law, to furnish such information and assistance to the Commission upon request made by the Chairman or any other member when acting as Chairman.

ADMINISTRATIVE SERVICES

SEC. 7. The General Services Administration shall provide administrative services for the Commission on a reimbursable basis.

REPORTS OF COMMISSION: TERMINATION

SEC. 8. The Commission shall submit its final report one year after the enactment of this Act. The Commission shall cease to exist sixty days after the date of the submission of its final report.

AUTHORIZATION OF APPROPRIATIONS

SEC. 9. There are hereby authorized to be appropriated, out of any money in the Treasury not otherwise appropriated, such amounts as may be necessary to carry out the provisions of this Act.

AMENDMENT OF PAR VALUE MODIFICATION ACT—AMENDMENTS

AMENDMENT NO. 51

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

Mr. BENTSEN submitted amendments, intended to be proposed by him to the amendment (No. 20) intended to be proposed by Mr. PROXMIRE (for himself, Mr. HOLLINGS, Mr. STEVENSON, Mr. HARRY F. BYRD, JR., Mr. ERVIN, and Mr. ALLEN) to the bill (S. 929) to amend the Par Value Modification Act.

ANNOUNCEMENT ON HEARINGS ON ELECTION REFORM BILLS

Mr. PELL. Mr. President, I wish to announce that public hearings will be held by the Subcommittee on Privileges and Elections of the Committee on Rules and Administration on a number of Federal election reform bills.

The hearings are scheduled for Wednesday, April 11 and Thursday, April 12, with the understanding that if the Commerce Committee has not by that date reported on S. 372—to establish overall limitations on campaign expenditures—then there will be an opportunity to consider its recommendations during subsequent hearings. The hearings will be held in room 301 of the Russell Office Building beginning at 10 a.m. each day.

ORDER FOR ADJOURNMENT UNTIL THURSDAY

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 meridian on Thursday.

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

ORDER FOR RECOGNITION OF SENATORS BEALL, DOMINICK, GRIFFIN, AND ROBERT C. BYRD ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Thursday, immediately after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, in the order stated: Mr. BEALL, Mr. DOMINICK, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

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

TRANSACTION OF ROUTINE MORNING BUSINESS ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the recognition of the aforementioned Senators on Thursday, there be a period for the transaction of routine morning business of not to exceed 30 minutes, with statements therein limited to 3 minutes each.

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

RESTORATION OF THE RURAL WATER AND SEWER GRANT PROGRAM

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that at the conclusion of routine morning business on Thursday, the Chair lay before the Senate Calendar Order No. 81, H.R. 3298, an act to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act.

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

THE GOLD PRODUCTION BILL

Mr. SPARKMAN. Mr. President, may I ask the acting majority leader when the leadership expects the Gold Revaluation bill to be called up? Our committee reported it sometime ago, and it was referred to the Committee on Foreign Relations. I am told that the Foreign Relations Committee will report it tomorrow. I assume that the bill on the water and sewer provisions should not take much time.

Mr. ROBERT C. BYRD. I do not think it will. I think the Senate can dispose of that measure on Thursday, after possibly 2 or 3 hours.

Mr. SPARKMAN. I wonder if we could take up the gold bill then? I do not see that it should require a very long time.

Mr. ROBERT C. BYRD. It may be possible. The majority leader will be back before Thursday, and I would like to just say it may be possible. I cannot be sure.

Mr. SPARKMAN. Of course, when we thought it was going to be reported out of the Committee on Foreign Relations on Tuesday of this week, the majority leader said we could take it up immediately following the bill just passed.

In the beginning, it was indicated that it was urgent that we act on it as soon as we could. I do not know just how urgent it is now. The people who are working on it seem to be working out pretty good arrangements over in Europe, and I hope that continues to hold true. However, I understand that is based in part on the fact that we are moving on the revaluing of gold.

Mr. ROBERT C. BYRD. Mr. President, I am sure that the leadership will keep in mind what the distinguished Senator from Alabama has just said. I cannot predict beyond what I have indicated, at the moment.

Mr. SPARKMAN. I understand. I thank the Senator.

SENATE CONCURRENT RESOLUTION 16—TO AUTHORIZE CERTAIN CORRECTIONS IN THE ENROLLMENT OF S. 7

Mr. RANDOLPH. Mr. President, for himself and the Senator from California (Mr. CRANSTON), I send to the desk a concurrent resolution to make certain technical changes in the enrollment of S. 7, the Vocational Rehabilitation Act of 1972, and ask for its immediate consideration.

The PRESIDING OFFICER. The concurrent resolution will be stated.

The assistant legislative clerk read as follows:

Resolved by the Senate (the House of Representatives concurring), That in the enrollment of the bill (S. 7) to amend the Vocational Rehabilitation Act to extend and revise the authorization of grants to States for vocational rehabilitation services, to authorize grants for rehabilitation services to those with severe disabilities, and for other purposes, the Secretary of the Senate is hereby authorized and directed, in the enrollment of the said bill, to make the following corrections; namely, in the table of contents in section 1 strike out "Sec. 308. Rehabilitation Centers for Spinal Cord Injuries" and insert in lieu thereof "Sec. 308. National Centers for Spinal Cord Injuries"; in section 305(a)(2), insert "such" before "subsection" the second time it appears; in section 500(b), strike out "VI" the second time it appears and insert in lieu thereof "VII"; in section 602, strike out "the" the first time it appears; and in section 702(d), strike out "not" and insert "not" after "but".

The PRESIDING OFFICER. Without objection, the Senate will proceed to its consideration.

Mr. RANDOLPH. Mr. President, the Vocational Rehabilitation Act has been adopted, as we know, in both the Senate and the House of Representatives. Legislative counsel has determined that there are a few technical errors in the enrolled bill, and this resolution proposes to correct those errors. The resolution has been cleared with both the majority and the minority leadership, and its consideration at this time has been agreed to.

The PRESIDING OFFICER. The question is on agreeing to the concurrent resolution.

The concurrent resolution (S. Con. 16) was agreed to.

ORDER FOR RECOGNITION OF SENATOR HARRY F. BYRD, JR., ON THURSDAY

Mr. HARRY F. BYRD, JR. Mr. President, may I ask the distinguished acting majority leader if he will add the name of the Senator from Virginia to the orders for 15 minutes on Thursday?

Mr. ROBERT C. BYRD. Mr. President, I make that request. I ask unanimous consent that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) be recognized immediately prior to the recognition of the junior Senator from West Virginia on Thursday, for not to exceed 15 minutes.

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

Mr. HARRY F. BYRD, JR. I thank my distinguished colleague.

GOLD REVALUATION

Mr. HARRY F. BYRD, JR. Mr. President, I noticed in the colloquy between the Senator from Alabama and the Senator from West Virginia that reference was made to the gold revaluation legislation which probably will be reported to the Senate on Thursday.

I would like to state for the RECORD that I would hope no unanimous-consent agreements will be entered into without the Senator from Virginia having an opportunity to discuss such a unanimous-consent agreement, particularly as it relates to germane amendments. The Senator from Virginia may have one or more amendments to that bill which he will feel are germane, but the Chair may not feel that way; so, before making any unanimous-consent arrangement, I would appreciate being notified.

Mr. ROBERT C. BYRD. Mr. President, if the Senator will yield——

Mr. HARRY F. BYRD, JR. I am glad to yield.

Mr. ROBERT C. BYRD. The distinguished Senator may be assured that if there is any attempt to promulgate a unanimous-consent agreement, it will first have been cleared with him, now that he has put the leadership on notice.

Mr. HARRY F. BYRD, JR. I thank my distinguished friend.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk called 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.

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS UNTIL NOON ON THURSDAY

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all committees may be authorized to file reports during the adjournment of the Senate until 12 o'clock meridian on Thursday.

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

AUTHORIZATION FOR SECRETARY OF SENATE TO RECEIVE MESSAGES FROM HOUSE OF REPRESENTATIVES AND THE PRESIDENT OF THE UNITED STATES DURING THE ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Secretary of the Senate may be authorized to receive messages from the House of Representatives and from the President of the United States, and that they may be appropriately referred during the adjournment of the Senate.

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

AUTHORIZATION FOR VICE PRESIDENT, PRESIDENT PRO TEMPORE, OR ACTING PRESIDENT PRO TEMPORE TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS DURING ADJOURNMENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment over until Thursday the Vice President, the President pro tempore, or the Acting President pro tempore may be authorized to sign duly enrolled bills and joint resolutions.

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

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, the program for Thursday 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. BEALL, Mr. DOMINICK, Mr. GRIFFIN, Mr. HARRY F. BYRD, JR., and Mr. ROBERT C. BYRD.

There will then be a period for the transaction of routine morning business for not to exceed 30 minutes, with statements limited therein to 3 minutes each.

At the conclusion of the morning business, the Chair will lay before the Senate Calendar Order No. 81, H.R. 3298, to restore the rural water and sewer grant program under the Consolidated Farm and Rural Development Act.

Yea-and-nay votes are expected thereon.

ADJOURNMENT UNTIL THURSDAY, MARCH 22, 1973

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock meridian on Thursday next.

The motion was agreed to; and at 9:13 p.m. the Senate adjourned until Thursday, March 22, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate March 20, 1973:

INTERNAL REVENUE SERVICE

Donald C. Alexander, of Ohio, to be Commissioner of Internal Revenue, vice Johnnie M. Walters, resigned.

LAW ENFORCEMENT ASSISTANCE

Donald E. Santarelli, of Virginia, to be Administrator of Law Enforcement Assistance, vice Jerris Leonard, resigned.

IN THE AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of Chapters 35 and 837, Title 10, United States Code:

To be major general

Brig. Gen. William H. Bauer, [redacted] FV, Air Force Reserve.

Brig. Gen. Stuart G. Haynsworth, [redacted] FV, Air Force Reserve.

Brig. Gen. Howard T. Markey, [redacted] FV, Air Force Reserve.

Brig. Gen. Alfred J. Wood, Jr., [redacted] FV, Air Force Reserve.

To be brigadier general

Col. William C. Banton II, [redacted] FV, Air Force Reserve.

Col. Francis N. Clemens, [redacted] FV, Air Force Reserve.

Col. Michael Collins, [redacted] FV, Air Force Reserve.

Col. Bruce H. Cooke, [redacted] FV, Air Force Reserve.

Col. Roger M. Dreyer, [redacted] FV, Air Force Reserve.

Col. John W. Huston, [redacted] FV, Air Force Reserve.

Col. Cecil T. Jenkins, [redacted] FV, Air Force Reserve.

Col. Stephen T. Keefe, Jr., [redacted] FV, Air Force Reserve.

Col. Leonard Marks, Jr., [redacted] FV, Air Force Reserve.

Col. Roy M. Marshall, [redacted] FV, Air Force Reserve.

Col. Robert M. Martin, Jr., [redacted] FV, Air Force Reserve.

Col. Sidney S. Novaresi, [redacted] FV, Air Force Reserve.

Col. Pat Sheehan, [redacted] FV, Air Force Reserve.

Col. Ted W. Sorensen, [redacted] FV, Air Force Reserve.

Col. Edwin F. Wenglar, [redacted] FV, Air Force Reserve.

IN THE NAVY

Vice Adm. John M. Lee, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3370 and 3383:

ARMY PROMOTION LIST

To be colonel

Aichang, Kenneth W., [redacted].
Be Vier, William A., [redacted].
Bergen, Wilbur H., [redacted].
Biteman, Berne W., [redacted].
Bloodgood, Donald A., [redacted].
Cawthorn, James F., [redacted].
Cole, Ralph N., [redacted].
Conover, Roger F., [redacted].
Conrad, George W., [redacted].
Curtis, William W., [redacted].
English, Edward J., [redacted].
Daly, William J., [redacted].
Davis, Eugene W., [redacted].
Erffmeyer, Robert M., [redacted].
Fore, Fredis C., [redacted].
Frankel, Herman, [redacted].
Gacesa, Paul, [redacted].
Gardner, Robert C., [redacted].
Hanshew, Willard E., [redacted].
Hoberg, John C., [redacted].
Houghton, C. H., [redacted].
Ianno, John P., [redacted].
Lee, Harry J., [redacted].
Leithiser, R. E., [redacted].
Martin, Lewis A., Jr., [redacted].
McDonald, Harold F., [redacted].
Mendonca, Albert L., [redacted].
Morris, Robert D., Jr., [redacted].
Nally, Thomas P., [redacted].
O'Connor, Robert J., [redacted].
Pearson, Donald A., [redacted].
Pfeiffer, Richard M., [redacted].
Propp, Allen Jay, [redacted].
Reynolds, Garnet R., [redacted].
Rutter, Leland B., [redacted].
Samuel, Aaron, [redacted].
Smith, Jay C., [redacted].
Storms, Luther L., [redacted].
Tindall, Robert F., [redacted].
Wingate, Waldo F., [redacted].
Wonderland, H. H., [redacted].
Wright, Edward C., [redacted].

CHAPLAIN

To be colonel

Haywood, Earl D., [redacted].
Hinkel, John S., [redacted].
McConville, P. G., [redacted].

DENTAL CORPS

To be colonel

Soll, Vincent F., [redacted].

MEDICAL CORPS

To be colonel

Cillo, Joseph P., [redacted].
Davis, Harry R., [redacted].
Fulsher, Remy W., [redacted].
Klein, Arthur, [redacted].
Rees, William J., [redacted].

MEDICAL SERVICE CORPS

To be colonel

Bennett, W. A., [redacted].

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3366, 3367, and 3383:

ARMY PROMOTION LIST

To be lieutenant colonel

Ackerman, Carl W., [redacted].
Adams, Adran D., [redacted].
Adams, Charles R., [redacted].
Adams, Edmund I., [redacted].
Adams, Harold R., [redacted].
Adams, Maseo A., [redacted].
Ahlen, Jack L., [redacted].
Ahwajee, Edward, [redacted].
Albares, Edward A., [redacted].
Albrecht, Victor C., [redacted].
Aldridge, Harold L., [redacted].
Alexander, G. P., [redacted].
Alexander, W. R., Jr., [redacted].
Allen, Edward R., [redacted].
Allen, Lee W., [redacted].
Aloe, William B., [redacted].
Alvarez, Joe R., [redacted].
Anderson, Robert R., [redacted].
Appel, Darvin R., [redacted].
Arnold, Norman T., [redacted].
Arntz, Benjamin L., [redacted].
Atienza, Fortunato, [redacted].
Atkinson, Dean M., [redacted].
Atkinson, John C., [redacted].
Babb, Philip E., [redacted].
Baer, John G., [redacted].
Bailey, Douglas A., [redacted].
Bailey, Robert A., [redacted].
Baker, Robert J., [redacted].
Balch, Bruce L., [redacted].
Barham, Robert T., [redacted].
Barjian, Harold, [redacted].
Barker, Joseph H., [redacted].
Barnett, Walter L., [redacted].
Barrett, Ellwood, [redacted].
Barry, Dennis P., [redacted].
Barry, Earl C., Jr., [redacted].
Barton, Thomas B., [redacted].
Bass, Harry I., [redacted].
Baxter, Harry Y., [redacted].
Bean, Joseph N., [redacted].
Beariault, Douglas, [redacted].
Beaulieu, Gerard J., [redacted].
Beckett, Eugene F., [redacted].
Beckwith, W. S., Jr., [redacted].
Beggs, Carol E., [redacted].
Bell, Richard, [redacted].
Bell, Theodore T., [redacted].
Bennett, James F., [redacted].
Bennett, Wallace R., [redacted].
Berg, Wilbert L., [redacted].
Bertsch, Leroy L., [redacted].
Bezek, Frank, [redacted].
Biggs, Joel T., [redacted].
Bigien, Charles, [redacted].
Bill, Edgar W., [redacted].
Biller, Lester C., [redacted].
Bishop, Donald G., [redacted].
Blackmore, Harold J., [redacted].
Blalock, Alfred J., [redacted].
Blazel, Carl L., [redacted].
Blevins, Robert L., [redacted].
Boals, Bruce R., [redacted].
Bockelman, A., Jr., [redacted].
Boddington, David L., [redacted].
Boden, Richard N., [redacted].
Boespflug, James F., [redacted].
Bohn, Donald R., [redacted].
Bolz, Eric H., Jr., [redacted].
Bonneville, Bruce V., [redacted].
Borchert, Arnold A., [redacted].
Bostick, Allen L., [redacted].
Bostwick, Wilbur L., [redacted].
Bottani, Aldo A., Jr., [redacted].
Bourne, Alan W., [redacted].
Bowen, Dell R., [redacted].
Bowman, Harrison F., [redacted].
Bowman, Jan, [redacted].
Boyd, Frank E., [redacted].
Bradford, Moffatt D., [redacted].
Bradford, Thomas H., [redacted].
Brailsford, A. H., [redacted].
Branstetter, C. C., [redacted].
Brauner, C. J., Jr., [redacted].
Briggs, Donald J., [redacted].
Briscoe, Thomas H., [redacted].
Brock, Oscar J., Jr., [redacted].
Brown, George L., Jr., [redacted].
Brown, Harold S., [redacted].
Brown, William R., [redacted].
Brunett, Robert J., [redacted].
Brusacoram, Henry P., [redacted].
Bryson, Woodrow, [redacted].
Buell, Donald E., [redacted].
Buskey, Ulysses, [redacted].
Buss, Donald J., [redacted].
Byrne, Daniel W., [redacted].
Cannon, Philip B., [redacted].
Cappelluti, Maurice, [redacted].
Carter, John P., [redacted].
Carville, L. L., [redacted].
Cassidy, John J., [redacted].
Castille, Harold J., [redacted].
Ceder, Robert W., [redacted].
Chadwick, John E., [redacted].
Charles, Russell D., [redacted].
Chesnut, Robert L., [redacted].
Chick, Charles E., [redacted].
Chopay, Edward F., [redacted].
Christiansen, William N., [redacted].
Chung, Donald H., [redacted].
Churchman, John P., [redacted].
Clark, Chapin D., [redacted].
Clark, James R., [redacted].
Clark, John P., [redacted].
Clark, Robert L., [redacted].
Cleary, Francis J. J., [redacted].
Cleland, Charles H., [redacted].
Cline, Donald L., [redacted].
Cockrell, Paul J., [redacted].
Coffey, Ronald E., [redacted].
Collins, James R., [redacted].
Collins, Thomas A., [redacted].
Collins, William T., [redacted].
Comparato, Frank E., [redacted].
Conlon, Kenneth F., [redacted].
Cooner, Samuel W., [redacted].
Cope, Ross N., [redacted].
Corbell, Charles D., [redacted].
Costa, David W., [redacted].
Costa, Louis E., [redacted].
Costello, John F., [redacted].
Coutras, Angelo A., [redacted].
Coviello, Vincent J., [redacted].
Cox, Richard L., [redacted].
Craig, Leon D., [redacted].
Craig, Ronald E., [redacted].
Craker, Philip E., [redacted].
Cramer, John J., [redacted].
Crenshaw, Norris L., [redacted].
Crockett, Wendell R., [redacted].
Cruse, Billie B., [redacted].
Cruz-Santiago, V., [redacted].
Cumbee, C. F., Jr., [redacted].

Currie, James D., xxx-xx-xxxx
Daigle, Joseph A. E., xxx-xx-xxxx
Dame, John H., xxx-xx-xxxx
Damore, Guy F., xxx-xx-xxxx
Damron, John, Jr., xxx-xx-xxxx
Danley, Edgar E., xxx-xx-xxxx
Darby, Harry C., xxx-xx-xxxx
Darden, Louis H., Jr., xxx-xx-xxxx
Davidson, L. D., xxx-xx-xxxx
Davis, Berwyn G., xxx-xx-xxxx
Davis, James T., xxx-xx-xxxx
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Williams, Howard S., xxx-xx-xxxx
Williams, John W., xxx-xx-xxxx
Williams, Lawrence, xxx-xx-xxxx
Williams, Leroy L., xxx-xx-xxxx
Williams, O. H. Jr., xxx-xx-xxxx
Williams, Robert R., xxx-xx-xxxx
Willis, Ellen R., xxx-xx-xxxx
Wilson, Lowell C., xxx-xx-xxxx
Winkler, Jack L., xxx-xx-xxxx
Winn, John H., xxx-xx-xxxx
Wirtz, Anthony H., xxx-xx-xxxx
Wolfe, Wallace E., xxx-xx-xxxx
Wood, Bobby G., xxx-xx-xxxx
Wood, John F., xxx-xx-xxxx
Wood, Rosemary R., xxx-xx-xxxx
Woodson, William D., xxx-xx-xxxx
Woodward, Clement L., xxx-xx-xxxx
Wright, Peter, xxx-xx-xxxx
Yanssens, Leon R., xxx-xx-xxxx
Yarbrough, John F., xxx-xx-xxxx
Yearout, James L., xxx-xx-xxxx
York, James O., xxx-xx-xxxx
Youmans, Edgar H., Jr., xxx-xx-xxxx
Young, Charles D., xxx-xx-xxxx
Young, Howard L., xxx-xx-xxxx
Zabel, Patrick H., xxx-xx-xxxx
Zallen, Harold, xxx-xx-xxxx
Zimmerman, Robert J., xxx-xx-xxxx
Zimmermann, Frederick, xxx-xx-xxxx
Zurfluh, Robert D., xxx-xx-xxxx

CHAPLAIN

To be lieutenant colonel

Clinkscales, J. W. Jr., xxx-xx-xxxx
Currie, Charles C., xxx-xx-xxxx
Douglas, Franklin C., xxx-xx-xxxx
Elmore, Harold T., xxx-xx-xxxx
Field, Harold G., xxx-xx-xxxx
Lukaszewski, L., xxx-xx-xxxx
McGowan, Matthew, xxx-xx-xxxx
Perrelli, James M., xxx-xx-xxxx
Rice, Albert D., xxx-xx-xxxx
Robertson, Russell, xxx-xx-xxxx
Wagner, Ralph F., xxx-xx-xxxx
Wayman, Robert E., xxx-xx-xxxx

ARMY NURSE CORPS

To be lieutenant colonel

Spooner, L. T., xxx-xx-xxxx

MEDICAL SERVICE CORPS

To be lieutenant colonel

Eagon, Robert G., xxx-xx-xxxx

VETERINARY CORPS

To be lieutenant colonel

Brewer, Robert L., xxx-xx-xxxx

The following-named officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, sections 591, 593, and 594:

MEDICAL CORPS

To be lieutenant colonel

Leaver, Robert C., xxx-xx-xxxx
Schricker, James L., Jr., xxx-xx-xxxx
Vines, Donald H., xxx-xx-xxxx

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, United States Code, section 3385:

ARMY PROMOTION LIST

To be colonel

Anderson, Donald A., xxx-xx-xxxx
Barker, Robert E., xxx-xx-xxxx
Benway, William C., xxx-xx-xxxx
Callicott, William E., xxx-xx-xxxx
Crozier, Edward E., xxx-xx-xxxx
Dillon, John J., xxx-xx-xxxx
Dougherty, Frank C., Jr., xxx-xx-xxxx
Eisenbarth, Harold C., xxx-xx-xxxx
Harris, Durwood F., xxx-xx-xxxx
Hauk, Frank L., xxx-xx-xxxx
Hegarty, Joseph P., xxx-xx-xxxx
Hill, Willard D., Jr., xxx-xx-xxxx
Homier, Delbert C., xxx-xx-xxxx
Lorenzo, Joseph A., xxx-xx-xxxx
McKnight, James H., Jr., xxx-xx-xxxx
Rames, Claude B., xxx-xx-xxxx
Ryan, William J., xxx-xx-xxxx
Sajer, Gerald T., xxx-xx-xxxx
Stephens, Elmer L., xxx-xx-xxxx
Sweet, Dean S., xxx-xx-xxxx
Throwe, James H., xxx-xx-xxxx
Varner, Joel E., xxx-xx-xxxx
Ward, Homer R., Jr., xxx-xx-xxxx
Wubbens, Marvin G., xxx-xx-xxxx

CHAPLAIN

To be colonel

McMain, Robert O., xxx-xx-xxxx

MEDICAL CORPS

To be colonel

James, Herbert H., Jr., xxx-xx-xxxx
Ottensmeyer, David J., xxx-xx-xxxx
Wallace, Clinton E., xxx-xx-xxxx
Wight, Willard R., xxx-xx-xxxx

The following-named Army National Guard officers for appointment in the Reserve of the Army of the United States, under the provisions of title 10, U.S.C., section 3385:

ARMY PROMOTION LIST

To be lieutenant colonel

Armstrong, Robert A., xxx-xx-xxxx
Bennett, James F., xxx-xx-xxxx
Boll, James C., xxx-xx-xxxx
Brown, James D., xxx-xx-xxxx
Craker, Philip E., xxx-xx-xxxx
Davis, James R., xxx-xx-xxxx
Ehrlich, Addison C., xxx-xx-xxxx
Flattery, Mark E., xxx-xx-xxxx
Gore, John F., xxx-xx-xxxx
Grenier, Wilfrid E., Jr., xxx-xx-xxxx
Hansen, Richard B., xxx-xx-xxxx
Harrison, Patrick W., xxx-xx-xxxx
Herrero, Ismael H., Jr., xxx-xx-xxxx
Liston, William M., xxx-xx-xxxx
Maier, John A., xxx-xx-xxxx
Mangskau, Dale N., xxx-xx-xxxx
Markle, Fred W., xxx-xx-xxxx
McCarrel, H. Denis, xxx-xx-xxxx
Mees, Eugene A., xxx-xx-xxxx
Mora, Alfredo J., xxx-xx-xxxx
Orton, William J., xxx-xx-xxxx
Peterson, Leslie L., xxx-xx-xxxx
Pigg, Charles A., xxx-xx-xxxx
Proctor, Orval D., xxx-xx-xxxx
Red, Charles W., xxx-xx-xxxx
Richard, Marland H., xxx-xx-xxxx
Richardson, Alan D., xxx-xx-xxxx
Ridgway, Richard W., xxx-xx-xxxx
Roubert, Modesto A., xxx-xx-xxxx
Ryan, James A., xxx-xx-xxxx
Savage, John W., Jr., xxx-xx-xxxx
Seldon, Wendell L., xxx-xx-xxxx
Shorter, Sam R., xxx-xx-xxxx
Tatum, William D., Jr., xxx-xx-xxxx
Thorn, Richard E., xxx-xx-xxxx
Ulbright, Jack L., xxx-xx-xxxx
Van Ekeren, John H., xxx-xx-xxxx
Walker, Sidney D., xxx-xx-xxxx
Wallace, Carl D., xxx-xx-xxxx

The following-named officers for promotion in the Reserve of the Army of the United States, under the provisions of title 10, sections 3366 and 3367:

ARMY PROMOTION LIST

To be lieutenant colonel

Gwin, Charles C., xxx-xx-xxxx
Hinshaw, Rayborn F., xxx-xx-xxxx
Laskoskie, Lawrence B., xxx-xx-xxxx
McMaster, William H., xxx-xx-xxxx
Meeker, David O., Jr., xxx-xx-xxxx
Mondelli, Raymond J., xxx-xx-xxxx
Trivieri, Lawrence A., xxx-xx-xxxx

IN THE MARINE CORPS

The following-named (Naval Reserve Officer Training Corps) graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Anderson, Curtis J.
Budka, Andrew J.
Carter, Richard R.
Clifton, David R.
Groves, David A.
Halton, Patrick K.
Jeffrey, Benjamin W.
Lupton, Robert E.
O'Hara, James R.
Recine, John
Richardson, Edmond T.
Stevens, Roland E.
Winter, William E.
Wydler, Arthur A.

The following-named (Navy enlisted scientific education program) for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Alfieri, Louis J.
Averett, Cecil M.
Bond, James
Brown, Jerry L.
Byrnes, Michael
Gebhardt, George
Plautz, Richard
Praytor, Danny
Schwarz, Kenneth
Steenberg, Craig

The following-named U.S. Naval Academy graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Anthony, Gregory M.
Apple, Robert E., Jr.
Atchison, Donald H.
Bachman, B. M.
Bailey, Johnny P.
Bain, William F.
Bandlow, Richard A.
Bender, Robert H.
Berger, Kenneth
Blackwell, Charles H.
Boyd, Raymond A., Jr.
Breen, Dennis J.
Brotherton, Roderick L.
Brousseau, Mark J.
Brown, Scott Lee
Bultemeir, Mark A.
Calhoun, Larry W.
Calkins, Steven C.
Calkins, Thomas R.
Campbell, James H., III
Canterna, Don L.
Carlson, Robert C., Jr.
Carr, Edgar B.
Carroll, Jere J.
Compton, Joseph H.
Cory, Robert B.
Costa, Mark A.
Cronauer, Victor T.
Davidson, John S.
Davis, Charles M.
Delpuppo, Enrico G.
Devane, Mark F.
Dicks, John J.
Donaldson, Scott E.
Donofrio, Edward J.
Dubuisson, Peter J.
Dunn, Frank D.
Eaton, Edmund D., Jr.
Ebanks, Gary H.
Eifein, Robert W.
Gieser, Christopher P.
Glenn, Steele H.
Gordon, Wellington H.
Graham, John W. P., Jr.
Graham, Sammy C.
Hanson, Stephen D.
Hendrickson, Leif H.
Hoagland, David L.
Hoffman, Thomas W.
Hogan, Gerald P.
Holstein, David D.
Holt, Luther E., Jr.
Hook, William D.
Jackson, James E., Jr.
Jacobs, Joseph M.
Jauregui, John A.
Jefferson, Donald S.
Johnson, Richard F.
Jones, Jimmy B.
Jones, Larry W.
Kanaga, Stephen C.
Kasica, Edward M., Jr.
Kelly, Sean
Kerlek, George, Jr.
Kiser, John B.
Klappert, Thomas G.
Klein, Steven A.
Koch, Richard C.
Kondreck, George E.
Kramlich, Richard S.
Lademan, William J.
Lane, Franklin D.
Lanzer, Francis P.
Larkin, Robert L., Jr.
Laurie, Howard J.
Lee, Robert E.
Lindberg, Michael W.
Lipsmeyer, William M.
Loughran, David W.
MacAllister, Steven C.
MacFadden, Gary D.
Marquardt, Bruce H.
Marsh, William E.
Marshall, Chez, III
Martin, Robert W.
Maruchi, William L., Jr.
Maslowski, Robert D.
McBride, Francis A., III
McCanna, Brad A.
McDonough, Michael M.
McHale, Daniel M.
McKeone, Charles E.
McClellan, David C.
Mechling, Andrew D.
Meyer, Timothy H.
Mitchell, Michael C.
Mock, Steven R.
Mosis, Dirk P. D., III
Novicki, Edward J.
O'Brien, Daniel C.
O'Donnell, William P.
Orr, Bryant C.
Owen, Jack E. Jr.
Perrich, David W.
Peters, Douglas T.
Peterson, Charles L.
Peterson, Jerrold B.
Pietropaulo, Lawrence J.
Piggott, James W.
Pons, James E.
Ritacco, Steven M.
Robertson, Donald E.
Ruescher, Ronald W.
Rush, John D.
Ryan, Timothy J.
Sanborn, Michael B.
Schaefer, James H.
Schlaich, Norman G.
Seamans, Mark A.
Senn, Charles C., Jr.
Shaulis, Steven W.
Shea, Edward T.
Shipley, William J., Jr.
Shirk, Donald P.
Smith, Barry L.
Smith, David L.
Sorrell, Dennis C.
Stewart, Paul A., Jr.
Stewart, Richard A.
Stone, Douglas M.
Strait, Thomas M.
Stuart, James A., III
Teskey, James G.
Thomas, Kenneth E.
Tongate, Billy W.
Troffer, Lawrence E., Jr.
Trudeau, Barry W.
Twadell, William M.
Voith, Charles P.
Wardell, John F.
Waters, William, Jr.
Watson, Gene D. M.
White, Thomas B., III
Yencha, John M., Jr.
Young, David H.

The following-named U.S. Air Force Academy graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Casey, James M.
Dulin, Patrick J.
Lutz, David W.

IN THE MARINE CORPS

The following-named (commissioned warrant officers/warrant officers) for temporary appointment to the grade of first lieutenant in the Marine Corps, for limited duty, subject to the qualifications therefor as provided by law:

Achten, Ronald
Anderson, William E.
Anti, Raymond L.
Baggs, Marion R.
Baker, Lorenza T.
Barrientes, Hector
Battista, Salvatore A.
Belfiore, James A.
Bender, Ronald L.
Bisplinghoff, Gary W.
Blake, Robert L.
Blount, John L., Jr.
Boedefeld, Ralf R.
Box, Frank E.
Branum, James V.
Brown, Palmer
Byrne, William G., Jr.
Caldwell, William
Carmichael, Stuart F.
Cartier, Thomas E.
Churchman, James D.
Clarke, Michael J.
Clemons, Edgar L.
Clifford, Gerald R.
Cordero-Torres, Jose N., Jr.
Cornette, Hubert C.
Curtis, Rex L.
Douglas, Arthur J.
Eure, James L.
Evans, Jack H.
Fields, Bobby J.
Gallan, Craig D.
Goddard, Neil W.
Gordon, Ellwood D.
Gour, Oliver F., Jr.
Gutierrez, Pedro
Hawkins, Emerson W.
Hayes, Albert L.
Hayward, Thomas E.
Hess, John D.
Hoffman, Ronald G.
Hohnhorst, William, Jr.
Hopkins, Julius B.
Johnson, William R.
Johnson, Charles A.
Keene, John S.
Kindschy, Orville P.
Kinsey, Chester C.
Lamerson, Jerry L.
Lary, Albert R.
Lish, Thomas C.
Loftus, Redmond J., Jr.
Loynes, John W.
Lum, Allen J. A.
Maire, William S.
Marlowe, John P.
Matthias, Raymond C.
McCall, Jimmy E.
McGee, James H.
Meadors, William D., III
Medor, Ellory M.
Merrifield, Larry G.
Odom, Hillman R., Jr.
Penn, William D.
Pitcher, Alfred M.
Quinn, Paul F.
Robinson, Neil H.
Rocheleau, Alfred R.
Russell, James E.
Sandwich, Stephen A.
Sellers, Thomas R.
Shumpert, David E.
Skipper, Minter C., Jr.
Snipes, Isaac A.
Southard, Alan J.
Strohschein, Raymond R.
Swindell, Thomas E.
Thorpe, Joseph
Tomlinson, William G.
Trippleton, Eugene M.
Vallee, Daniel
Walker, William J.
Washington, Rufus J.
Webb, Patrick J.
Webb, Leonard R.
Whiting, William A.
Windsor, Bruce M., Jr.
Witek, Anthony P.
Woodard, Billy W.
Wright, Charles G.
Yantorn, James J.
Yarbrough, John D.
Young, Charles E.
Yow. Arthur. Jr.

The following-named (staff noncommissioned officers) for temporary appointment to the grade of second lieutenant in the Marine Corps, for limited duty, subject to the qualifications therefor as provided by law:

Bacon, Leland W.
Bailey. Robert H.
Balignasay, Ernest N.
Bartley, Robert L.
Black, James
Bos, Richard E.
Boyd, Joseph S.
Brewer, Glenn A.
Bryant, Richard A.
Bulock, Cecil C.
Burell, John D.
Burkhart, Ted M.
Callaghan, Charles J.
Carey, William G.
Carlson, Gary R.
Carlson, Roger W.
Carmoney, Albert R., Jr.
Carnot, Robert A.
Casey, Jackie V.
Cerqua, Vincent
Clark, Gerald M., Sr.
Clark, Gary B.
Cole, Quentin M.
Corbin, Joseph G.
Corby, Carl H., Jr.
Cox, John W.
Damewood, Walter W., Jr.
Doherty, Arthur D., Jr.
Domino, Stanley
Dorsett, John P.
Douglas, Thomas C.
Doyle, Thomas J.
Elsbury, Kenneth E.
Fennell, Daniel F., Jr.
Files, Ralph H.
Fleet, Richard W.
Frederickson, Robert R.
Frink, Herbert L.
Gray, Peter V.
Guthrie, Jackie W.
Haley, Ronald H.
Hammer, Donald W.
Harlow, Roger H., Jr.
Harrelson, Samuel T., Jr.
Harrison, Gregory
Haynes, Michael D.
Hendrix, Terry W.
Hollingsworth, Roy J.
Hoogerwerff, John C.
Horan, William J.
Innis, Donald A.
Iverson, Robert D.
Jessup, Charles W.
Johnson, Billy P.
Johnson, Patrick M.
Johnson, Andrew L.
Justice, Charles M.
Lamm, Allen O.
Latour, Leonard W.
Lindstrom, George W.
Logan, James D.
Manchester, Harry, Jr.
McAllister, Clifton
McCarthy, John W.
McDaniel, Arthur R.
Monaco, Robert B., Sr.
Morgan, Ralph F.
Morgan, Marion K.
Morrow, Harvey D.
Moseley, Anthony D.
Myers, Harry L., Jr.
Ogden, John F.
Owen, Charles T.
Philson, James R.
Quaglia, Joseph J.
Renzelman, David M.
Robinson, William J.
Rowland, Otis E.
Ruch, Donald R.
Rudolph, Edwin A., Jr.
Shea, Howard D.
Shepherd, Donald R.
Slaugh, Larry W.
Smith, Paris G., Jr.
Snodgrass, Russell A., Jr.
Sofio, Franklin J.
Spencer, Roger K.
Stottlemyer, Merle E.
Sunderland, Jesse O.
Sunn, Larry A.
Swanson, Donald G.
Tate, Charles N.
Thomas, James E.
Tomlinson, James R.
Tootle, Garvin C.
Turley, Glenn H.
Waltrip, Edward E.
Weeks, Loyd T.
Whitney, Harold E., Jr.
Williams, Eddie N.

The following-named U.S. Military Academy graduate for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Jackson, Dennis M.

The following-named U.S. Naval Academy graduates for permanent appointment to the grade of second lieutenant in the Marine Corps, subject to the qualifications therefor as provided by law:

Russell, James E.
Short, William E., Jr.

U.S. DISTRICT COURTS

J. Foy Guin, Jr., of Alabama, to be a U.S. district judge for the northern district of Alabama vice Clarence W. Allgood, retired.

James H. Hancock, of Alabama, to be a U.S. district judge for the northern district of Alabama vice Seybourn H. Lynne, retired.

DEPARTMENT OF JUSTICE

John R. Wilks, of Indiana, to be U.S. attorney for the northern district of Indiana for the term of 4 years vice William C. Lee, resigning.

FARM CREDIT ADMINISTRATION

The following-named persons to be members of the Federal Farm Credit Board, Farm Credit Administration, for terms expiring March 31, 1979:

Luther W. Jennejahn, of New York, vice Jonathan Davis, term expiring.

Alfred Underdahl, of North Dakota, vice Millard F. Dailey, term expiring.