WOUNDED KNEE

HON. ELLA T. GRASSO

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, April 4, 1973

Mrs. GRASSO. Mr. Speaker, the General Assembly of the State of Connecticut has recently issued a proclamation on the situation at Wounded Knee, S. Dak., urging the Congress to take immediate steps toward resolving the crisis. This resolution demonstrates that many people, and not only those in South Dakota, believe that this is an issue of major importance. I would like to bring this proclamation to the attention of my colleagues:

RESOLUTION MEMORIALIZING CONGRESS CONCERNING THE CRISIS IN WOUNDED KNEE, S. DAK.

Resolved by this Assembly:

Whereas, the people of Connecticut and the nation are increasingly disturbed by the worsening situation in Wounded Knee, South Dakota, seized two weeks ago by members of the American Indian Movement; and

Whereas, negotiations between the leaders of the Indians and representatives of the United States Department of Justice and Interior have so far failed to resolve the dispute; and

Whereas, lives and property are in jeopardy as the crisis deepens;

Now, therefore, be it resolved, that the general assembly of the state of Connecticut urges the Congress of the United States to take prompt action to restore peace to the historic hamlet of Wounded Knee and to investigate the claims of the American Indian Movement to determine their validity and the necessity for federal response to these claims; and

Be it further resolved, that the Clerks of the House and Senate cause a copy of this resolution to be sent to the speaker of the United States House of Representatives, the President Pro Tempore of the United States Senate and the members of the United States Congress from Connecticut.

SENATE—*Thursday, April 5, 1973*

(Legislative day of Wednesday, April 4, 1973)

The Senate met at 10:30 a.m. following the recess, and was called to order by Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine.

PRAYER

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

O Lord our God, in whom we trust, put Thy hand upon the Members of this body to guide and strengthen them throughout this day and beyond. Bless them as they think together and work together in committee rooms and in this Chamber. Sustain them in moments of stress and tension. In weakness impart Thy strength, in fatigue give them renewal. Grant to them the moral and spiritual stamina to walk in paths of righteousness that they may fulfill their high calling in service to this Nation and in the advancement of Thy kingdom on earth.

We pray in the name of Him who went about doing good. 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., April 5, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. WILLIAM D. HATHAWAY, a Senator from the State of Maine, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Journal of the proceedings of Wednesday, April 4, 1973, be approved.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

FARM CREDIT ADMINISTRATION

The ACTING PRESIDENT pro tempore. The clerk will state the nomination.

The second assistant legislative clerk read the nomination of Luther W. Jennejahn, of New York, to be a member of the Federal Farm Credit Board, Farm Credit Administration.

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

Mr. MANSFIELD. Mr. President, I request that the President be immediately notified of the confirmation of the nomination.

The ACTING PRESIDENT pro tempore. Without objection, the President will be so notified.

LEGISLATIVE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate return to legislative session.

There being no objection, the Senate resumed the consideration of legislative business.

MR. NIXON VERSUS THE CONGRESS

Mr. MANSFIELD. Mr. President, in the Christian Science Monitor of April 4, 1973, there was a very worthwhile, pithy editorial, entitled "Mr. Nixon Versus the Congress." I ask unanimous consent that it be inserted at this point in the RECORD.

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

MR. NIXON VERSUS THE CONGRESS

A sentence in yesterday's report in this newspaper from our correspondent at San Clemente jolted us into a new concern about the state of affairs which now exists between the President of the United States and the Congress.

The report was discussing prospects for a continued flow of economic aid from the United States to the government of South Vietnam headed by Nguyen Van Thieu. This, it seems, was the main subject at San Clemente when President Thieu had his first meeting on U.S. soil with President Nixon.

"Administration officials," our correspondent wrote, "acknowledge both Presidents will have to improve their relations with the U.S. Congress first."

Here indeed is a startling change in affairs. Economic aid from the United States to South Vietnam has never before been in slightest serious question. True, Senate doves have long been chanting slogans about bringing the dollar home. And all of us have known for several weeks now that the Nixon program for economic aid to former enemies in North Vietnam was in trouble. It is in obviously greater trouble now that returning POWs have so much to say about torture. But until now economic aid to the people the United States has so long been supporting in South Vietnam has never before been in serious question.

In the past the use of dollars, credits and supplies of all kinds to sustain the non-Communist government in Saigon was just as routine a part of Washington life as the annual rivers and harbors bill, or apple pie. Yet now we are told that if President Thieu is to be assured of a regular and continuing flow of economic aid he himself will have to do his own lobbying with the leaders of the Congress of the United States. That flow is no longer something President Nixon can grant or withold at White House pleasure. It is something that can be had only if President Thieu helps President Nixon persuade the leaders of the Congress to do what both want them to do.

Five months ago Richard Nixon was re-elected President of the United States by one of the great landslides of political history. Yet today—such a short time later—he has less influence over the Congress than he had during the first four years which were built on one of the narrowest of political victories. We are left to ponder the phenomenon of why a landslide is worth less in influence with the Congress than a narrow victory.

A large part of the explanation is probably to be found in the tone of voice used by

White House staff people to members of the Congress since the landslide. A glaring example was Ronald Ziegler, age 34, telling Sen. Sam Ervin, age 77, to "get his own disorganized house in order."

After all, Mr. Ziegler is only a press aide to the President. Senator Ervin is the senior Senator from the sovereign state of North Carolina. Senators don't like being lectured at like that by White House aides half their own age. It seems to us that the landslide induced in junior White House staffers a tone of arrogance toward Congress which is already doing serious harm to the most important projects of this administration. We again urge Mr. Nixon to forget the landslide, change the tone of White House address, and concentrate on mending his relations with the Congress before irreparable damage is done. The White House must remember that in the United States the people are still sovereign. The President is merely the first magistrate, nothing more.

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

Mr. GRIFFIN. No, Mr. President.

AMENDMENT OF THE PAR VALUE MODIFICATION ACT

The ACTING PRESIDENT pro tempore. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 929, which the clerk will read by title.

The assistant legislative clerk read the bill by title, as follows:

A bill (S. 929) to amend the Par Value Modification Act.

The ACTING PRESIDENT pro tempore. The question is on agreeing to the amendment of the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum without losing my right to the floor.

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

Mr. HARRY F. BYRD, JR. 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. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, what is the pending business?

The ACTING PRESIDENT pro tempore. The question is on the adoption of the amendment of the Senator from Virginia, amendment No. 76.

Mr. HARRY F. BYRD, JR. Mr. President, amendment No. 76 would deny the use of American tax funds for the benefit of North Vietnam.

What the amendment does is to prohibit the expenditure of all funds to North Vietnam.

I recognize, of course, that any subsequent proposed legislation which may be submitted to Congress, either by the President or by any Member of Congress, if that proposed subsequent legislation should be enacted, it would take precedence over the proposal we have before us at the moment.

So what the amendment, in essence, does is to say that no funds shall be utilized for the benefit of North Vietnam unless Congress specifically hereafter approves.

As we all know, there is a vast amount of money in the pipelines of the Government, money appropriated but not spent. There are billions of dollars in the foreign aid pipeline. There are billions of dollars in the Department of Defense pipeline.

If this amendment is approved, then no previously appropriated funds could be used for the benefit of North Vietnam, for economic aid to North Vietnam, without the approval of Congress. That is implicit in the amendment now before the Senate. I do not think that anyone familiar with legislative work would contend otherwise. Obviously, this proposal could be vitiated by any subsequent legislation.

However, in order to make the fact completely clear, I shall modify my proposal by striking the period at the end of the amendment and inserting a comma and these words: "unless specifically authorized hereafter by Congress."

Mr. President, I send the modification to the desk and ask that the amendment be so modified.

The ACTING PRESIDENT pro tempore. Without objection, the amendment will be so modified.

Mr. ROBERT C. BYRD. Mr. President, does this modification require unanimous consent?

The ACTING PRESIDENT pro tempore. There is no exact precedent on that point, and there is a question as to whether unanimous consent would be required.

Mr. TOWER. Mr. President, will the Senator from Virginia please repeat his modification?

Mr. HARRY F. BYRD, JR. Yes. At the end of the amendment strike the period and insert a comma and the following language: "unless specifically authorized hereafter by Congress."

I say to the Senator from Texas that I think it is implicit in the amendment as it was originally introduced. However, in the event there is any lack of clarity in the minds of any Member of the Senate, I am willing to modify the amendment to add those words.

Mr. President, I would think that the Senate and the House of Representatives would want to be very careful to see that the United States does not go into a new foreign aid program which would be tremendously costly over a period of time unless Congress specifically approves such a proposal. And that is what amendment No. 76 would do. It would not prevent subsequent aid to North Vietnam if Congress subsequently specifically approves such aid.

Mr. President, I want to be very frank with the Members of the Senate. I personally oppose a huge economic aid program to North Vietnam. However, I am only one Member of the Senate. And when proposals are made, if they are, to the Congress, a majority will decide.

What I am anxious to prevent—and that is the purpose of the amendment—is that none of these huge pipeline funds be used to initiate a new foreign aid program for the benefit of North Vietnam. I realize that there is a different viewpoint on this. However, I think that there are so many reasons why amendment No. 76 should be agreed to that I think the discussion of it today is most desirable.

I want to say again that this amendment does not prevent the President of the United States from submitting such a program to Congress. It does not prevent Congress from subsequently enacting such a program. It does not prevent any Member of the Congress from proposing legislation for economic aid to North Vietnam. And if that legislation is subsequently enacted, it would take the place of amendment No. 76. We all know that legislation enacted subsequent to a previous piece of legislation takes precedence.

However, as the amendment has been modified, it makes it even more clear that no funds can be used to establish a new foreign aid program for North Vietnam unless specifically authorized hereafter by the Congress of the United States.

I would think that those of us who feel that over a period of time the Chief Executive—and I am not speaking on the present Chief Executive or any specific Chief Executive, but I am speaking over a period of time—gather unto themselves as much power as possible.

I would think we would want legislation such as I have proposed and is being considered today, legislation that would say that no new foreign aid program or foreign aid spending so far as North Vietnam is concerned can be established without the specific authorization hereafter granted by the Congress of the United States.

I would hope that the President does not submit such a program. If he does submit such a program, the Congress can then consider the matter and take whatever action it deems wise.

Mr. HASKELL. Mr. President, would the distinguished Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the distinguished Senator from Colorado.

Mr. HASKELL. Mr. President, I would like to support very vigorously the amendment of the Senator from Virginia for the reasons given by him. I think that it is vitally important that this country not embark on further foreign aid programs without specific consent and approval of the Congress. However, Mr. President, were it not for the rule of germaneness that is provided for in this debate, I would seek to amend the Senator's amendment by adding the countries of South Vietnam, Cambodia, and Laos.

My reasons for wanting to do this are several. I do not believe that money given to the Government of South Vietnam would ever get the money to the people of South Vietnam. I do not believe the fact that the present ruler of South Vietname is called President of the country makes him any less a dictator than is the Premier of North Vietnam.

As to Cambodia and Laos, I seriously

question the constitutionality of the Chief Executive's decision to send B–52 bombers across Cambodia and blanket bomb areas of that country.

I do not agree with the representative of the State Department who pointed to Mr. Nixon's victory in November as a constitutional justification.

These are all matters which I think should have an orderly consideration in the Senate.

I commend the Senator from Virginia for taking the first step.

Mr. HARRY F. BYRD, JR. Mr. President, I thank my distinguished friend, the Senator from Colorado. I think that his remarks point up the deep concern that future steps in Southeast Asia be taken only with the approval and the authorization of the Congress of the United States. And most certainly, where public funds are involved, we are dealing with the moneys of the wage earners of our Nation. We have huge foreign aid commitments right now.

The new budget calls for the expenditure of $9.5 billion, not including whatever might be recommended for Indochina. The United States is in a very difficult financial position. The President thought it was necessary to veto a number of pieces of legislation dealing with the appropriations of public funds.

He has indicated that he will veto additional legislation appropriating funds for many projects in the United States of interest to the American people.

Taking into consideration all of this, I would think that our country should be very hesitant to go into a gigantic new spending progrm in Indochina.

We know from 10 years of experience—10 long, difficult years of experience—that Indochina is a quicksand for men and materials. We had 2.5 million men involved, over a period of 10 years, in Vietnam.

And if it is a quicksand for men and materials, I submit it will be a bottomless pit for American tax dollars if we ever begin to shovel out those dollars to Indochina.

What the amendment under consideration does is to prevent any tax funds to be used for the benefit of North Vietnam unless specifically authorized hereafter by the Congress of the United States. The decision is in the hands of Congress if this amendment is passed. Congress may approve or disapprove any subsequent programs submitted to us.

But if the amendment is not approved, there are billions of dollars of unspent appropriated funds which probably could be used for the establishment of a new program. So this amendment makes it clear that no American tax dollars shall be used for the benefit of North Vietnam, unless Congress hereafter authorizes such action.

Mr. TOWER. Mr. President, I must stand in opposition to the amendment offered by the distinguished Senator from Virginia, but I am bound to say that I am in very hearty agreement with him more often than I am in disagreement.

I think there are several questions that should be raised about the prudence of considering this amendment at this time. That this is an inappropriate vehicle, I think, is very obvious. This is the kind of matter that should be considered in connection with a military assistance bill or a foreign aid bill of some kind, and not considered in the context of the debate and consideration of the revaluation of the price of gold. But I suppose that the argument of germaneness sounds a little hollow here today, considering the violence that has been done to this legislation already by successive amendments.

However, I think it is unwise, Mr. President, for other reasons as well. We attempt here to establish foreign policy on the Senate floor in the consideration of a measure on which there have been no hearings, on a matter for which there has been no specific proposal emanating from the White House.

I can recall that a few years ago I was the author of an amendment to a foreign assistance bill which denied, precluded. and prohibited the use of any funds for Indonesia. My amendment was agreed to by an overwhelming majority—something like 72 to 26—and it was but a matter of weeks later that the Sukarno government was brought down by the then military junta in Indonesia—a government that since that time has demonstrated its affinitive position toward the United States, and has since that time proven its willingness to be a stabilizing influence in Southeast Asia. If I could, I would today recall my offering of and support of that amendment, but it is too late. Hindsight is always better than foresight.

I think this dramatizes the undesirability of trying to second-guess the administration in its formulation and implementation of foreign policy, or trying to second-guess what international situations are likely to exist even a few weeks hence.

The administration has not come to us with any proposal. We have not held any hearings. This is a matter that should be properly considered by the Committee on Foreign Relations, and perhaps by other committees that would have an interest in the matter. I certainly concur with my friend from Virginia that it is a controversial issue; and my present disposition would not be to extend aid to North Vietnam.

But who knows what might happen in the future? I think we have to consider North Vietnam in context. We have to think in terms of the territorial and political integrity of Thailand. What happens in Indonesia is of critical importance to the security of Thailand. We have no treaty obligations with the nations of Indochina. We do have a treaty obligation with Thailand, and the security of Thailand is very dependent on our ability to bring the war to an end in Indochina, to sanitize Laos and Cambodia or face the very great potential threat of armed aggression against Thailand.

Should such aggression occur, the United States would have two options: We could either send troops into Thailand to assist them, as we are bound to do as a SEATO signatory, or we could say that we are going to treat that commitment as a scrap of paper, we are not going to honor that commitment, and think in terms, if we were compelled to choose that second option, of what the long-range effects would be on the capacity of the United States to maintain its position as the leader of the free world, as the credible first line of defense against military and political aggression on the part of the other great superpower, the Soviet Union.

We might see deterioration of confidence in the United States on the part of our allies and on the part of neutralist nations. We might see a conclusion on the part of our potential adversaries that we have lost our will, that we will not honor our commitments, and then they will begin to mount political offensives against our friends and against the neutral nations that might result in their feeling compelled to make their own individual accommodations with the great super powers, accommodations that would neither work in their long-range benefit nor to our long range benefit. It could ultimately result in the isolation of the United States.

Some say that is the discredited domino theory. I do not know whether the domino theory can be sustained or discredited. It has to be applied to individual situations. But the confidence of the rest of the world in the resolve of the United States is a tremendously important thing.

We have paid a heavy price to maintain the confidence of the world in that resolve. We have paid the price of 55,000 dead Americans. We have paid the price of the loss of our blood and treasure in a nasty war that no one wanted. But we have come away with honor. Our prisoners of war have stepped ashore with their heads held high, and almost to a man have commended the President and the American people for not crawling on their bellies to the north.

I do not think that we should try to prejudge at this moment the wisdom of aid to North Vietnam. If we could be assured that aid to North Vietnam would result in good behavior on their part, could insure a responsible attitude on their part, and could secure decisions on the part of the hierarchy of that country, that they will look to their domestic concerns and no longer maintain their aggressive designs against their neighbors, then I think there might be some great merit in that kind of aid. It would, indeed, I think, be a small price to pay for the preservation of peace and stability in Southeast Asia.

Mr. President, I have received a very interesting letter from the sister of a returning prisoner of war, a young woman who has been very active in the support of our prisoners during the 7½ years that her brother was incarcerated in North Vietnam.

She writes of his feelings about some things. This is what she has to say about his attitude on the rehabilitation of North Vietnam. This is the attitude of a returning prisoner of war, one who went through all of the hell that most of them did:

As for our contributing to the rehabilitation of North Vietnam, he feels that it is absolutely essential because if we hope to have stabilization of the Southeast Asian

area, our presence must be maintained. This may be our only recourse toward peace in that area; therefore, so that all will not be lost in the future, we must stay—at least with American money. You had asked his feelings on this matter. I don't know if all POW's feel this way, but I suspect that they do.

Mr. President, I could not say that all POW's feel that way but it is, apparently, the view of one POW. It therefore could be the view of others. It certainly is a matter that could be brought out if we were to have hearings on the matter.

The President has already indicated that there should be no aid to North Vietnam unless there was a congressional authorization. I think it is inappropriate for us to prejudge the matter at this moment without having hearings, without getting all the facts, and without considering the matter in its proper context.

Therefore, I am very hopeful that the Senate will reject the amendment not because it disagrees with the spirit of it, but because, as I said a moment ago, I concur with the spirit of it at this moment, but because this is not the time to act.

Therefore, the responsible thing, I think, for the Senate to do at this moment, would be, regardless of our feelings on the matter, to reject the amendment.

Mr. HARRY F. BYRD, JR. Mr. President, just one word before I yield to the distinguished Senator from Wisconsin (Mr. PROXMIRE).

The Senator from Texas said that he thought now was not the time for this amendment, that he himself feels at the present time that probably aid should not be extended to North Vietnam.

I want to emphasize and make clear that the amendment itself—although I would just as soon have it the other way—does not prevent future action on behalf of aid to North Vietnam.

What the amendment says is that no U.S. tax funds shall be utilized for the benefit of North Vietnam unless specifically authorized thereafter by the Congress.

Now those who feel that the President or the executive branch should have the unilateral right to take tax funds and start a new program in Indochina, would want to oppose the amendment. But those who feel that Congress should keep control of the purse strings in the sense that any new programs must be first approved by Congress, I submit that those Senators would want to support my proposal.

I yield now to the distinguished Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.), in his remarks just made, makes the first point I should like to reiterate, emphasize, and underline, so that we know what the Senate is voting on.

What does the Byrd amendment provide?

It is not a prescription for all time, saying that we will never provide aid to North Vietnam. We can make an argument for that, but I would not suggest that.

Let me read the amendment, it is only one short sentence as presently constituted.

No funds made available by the Congress to any department or agency of the Government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

Now, Mr. President, a spokesman for the administration has said—and this is one of the most shocking statements I remember hearing in recent weeks, and I have heard a lot of them—that regardless of what Congress will do, whether it opposes or supports aid to North Vietnam, the administration intends to provide it.

Mr. President, if the vote yesterday—70 to 24—to limit impoundment by the President means anything, it means that we insist we will control the priorities on spending.

That is our constitutional right; that is our authority; and we are going to stand up and take responsibility for it. This is what the Byrd amendment does.

One could make a strong argument for no aid to North Vietnam, period, but the Byrd amendment does not do that. It says that if we are going to provide aid, let Congress provide it.

For a few years, I was chairman of the Subcommittee on Foreign Operations of the Appropriations Committee. In that capacity, I learned that if there is one very loose area of control in Congress, it is in foreign aid.

The fact is that when the administration comes up with their foreign aid bill, they do not indicate what countries are going to get the aid, except on an illustrative basis. They come up with what they call an illustrative budget. Under that budget, they can provide that country A is going to get $10 million and country B $1 million. They can decide later that all $11 million will go to country B. That is within their discretion. There is no limitation in the appropriation of how much can go to whatever country we wish it to go to.

For a long time, I have tried to change that, and I think we are making progress toward changing it and are going to provide a country-by-country appropriation within the next year or two.

However, when it comes to a very important policy action such as aid to North Vietnam, the modest proposal by the Senator from Virginia should prevail—that aid should be provided only with specific congressional authorization.

Let us consider the priorities here. All of us, I think, would like to help people who are in trouble. We know that some of the North Vietnamese people are innocent—many of them did not support the war, I am sure—that many were damaged terribly, painfully, and cruelly by American bombs.

We would like to help those people and provide medical attention. We would like to do what we could to provide some kind of limited assistance. I can see myself voting for some assistance of that kind. But what has been suggested is that we provide as much as $2.5 billion of development assistance for North Vietnam. Before I indicate what we are doing when we do that, let us consider our priorities.

The day before yesterday, the Senate voted to sustain a veto of the President. I voted against the prevailing side. At any rate, by sustaining the President's veto, the Senate upheld withholding funds for vocational rehabilitation to aid the handicapped, to aid people who are ill, who are sick, who are hurt, and who need some kind of assistance if they are going to work. This was killed by the administration, and that killing was sustained by the Senate by a 60-to-36 vote. Apparently, this is to have a lesser priority than aid to the North Vietnamese.

I was just sitting at hearings of the Housing Subcommittee of the Committee on Banking, Housing and Urban Affairs, yesterday and today.

Mr. TOWER. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I yield.

Mr. TOWER. Has the administration made a specific proposal to Congress to spend $2.5 billion in North Vietnam?

Mr. PROXMIRE. The administration has not made any such proposal, but the indications have been very clear that it is their intention to spend up to $2.5 billion over the next 2 years in aid to North Vietnam.

Mr. TOWER. Has the administration said that it will not spend money for vocational rehabilitation?

Mr. PROXMIRE. Of course, the administration will spend money for vocational rehabilitation. The question is how much, whether it is enough.

Mr. TOWER. The administration said they will accept a proposal that ups the proposed budget of last year, but not a proposal that includes waste and duplication.

Mr. PROXMIRE. I am against duplication and waste just as well as the Senator from Texas is against it. But I think that the program that was before the Senate, which the Senate passed and wanted to pass over the President's veto, was not a wasteful program. It was modest and would provide less money for that purpose than the administration would provide for North Vietnam.

I have an article from San Clemente, dated March 31, indicating that the Nixon administration has no intention of abandoning its commitment for aid to North Vietnam, despite indignation over Hanoi's treatment of prisoners of war. There has been no indication, also, that the administration would scale down the expressions made earlier that aid to North Vietnam would be as much as $2.5 billion.

Mr. TOWER. Is that a direct quotation from a White House source? If so, who was the spokesman in that instance?

Mr. PROXMIRE. So far as the aid to North Vietnam is concerned, it is my understanding that Mr. Ziegler was the author of it. I am not quoting Mr. Ziegler as saying $2.5 billion, however. I am saying that the administration said they will not abandon aid to North Vietnam, in spite of the treatment of U.S. prisoners of war.

Mr. TOWER. But that is not a direct quotation?

Mr. PROXMIRE. I wish the adminis-

tration would send up a request. The point is that they have not. Also, they have indicated that they are going to provide this aid, regardless of what Congress does. They are going to spend our money aiding North Vietnam, regardless of the position of Congress. Senator BYRD has said this should not be permitted unless specifically authorized hereafter by Congress.

I could go into priorities on vocational rehabilitation, housing, education, and health. In all these areas we are holding down spending, and in many areas we should. There is undoubtedly waste in some of these programs, waste in the education programs, overruns and waste in some of the health programs. But I think one can make a case that we need more health and educational services.

In the housing area, as I started to indicate when Senator TOWER asked me to yield, the administration is on record. Yesterday, Secretary Lynn made clear to our committee that because of a moratorium on low- and moderate-income starts, they are cutting back on 600,000 housing units. In other words, 600,000 fewer houses will be constructed for people with low and moderate income in this country.

At a time when housing costs are increasing and rents are high, this is bound to be a formula for inflation and will mean higher costs and higher rents. It is done because the administration is arguing that we do not have the money. Yet, they are proposing hundreds of millions of dollars—in fact, billions of dollars—of aid to North Vietnam.

The argument is made—and I think this is one of the most widely held illusions on the part of many people—that, after all, America has done this in the past; that after World War II we provided massive assistance to Germany and Japan. The assistance we provided to both Germany and Japan was substantial. On a per capita basis, however, it was less than the $2.5 billion—I will give the source later, when I get the precise source—that is now being provided for North Vietnam. But consider the difference.

In the case of Germany, Germany surrendered unconditionally. Hitler was dead. The Nazi regime was deposed. A democratic regime came into power. Furthermore, assistance to Germany undoubtedly would not have been provided, in my view, except that we recognized that unless we had a reconstructed, reestablished, strong Germany, it would be subject to Communist subversion and Communist control and Communist overrunning from the East. That was one of the big arguments for it.

With respect to Japan, the same situation prevailed. The Japanese Emperor resigned; the Japanese dictatorship was deposed. It was replaced by a model parliamentary democracy.

Under those circumstances, we recognized there was a threat from Communist China. So once again we provided assistance to Japan, far less, however, than the assistance being contemplated now for North Vietnam. What do we have in North Vietnam? Do we have a parliamentary democracy? We have a Communist dictatorship. I know that many Senators propose that we not give aid to any dictatorship even if it is friendly to this country, like the Greek dictatorship. I support that position and I think it is right.

But for us to give aid to a Communist dictatorship when we have been at war with them, when they have won the war, does not make sense at all. It is not analogous to the situation at the end of the World War II with respect to Germany and Japan.

Most taxpayers think we are out of our minds to talk about providing aid to North Vietnam under these circumstances. We are giving aid to a government which is a dictatorship, and many Senators have said they are opposed to any aid of that kind. But this is a Communist dictatorship, hostile to this country, carrying on hostilities right now in Cambodia, and, as we know, in South Vietnam.

Many of us think the foreign aid program should be changed dramatically and very drastically, that it should be multilateral and based on technical assistance, and that we should avoid big development aid programs because they have not worked. But if we are going to have a foreign aid program we should recognize where our responsibilities are and where that foreign aid program could be most effective.

We should have a high priority for South America. That is an area within our own area of responsibility and where, since the Monroe Doctrine, we have recognized that we have a peculiar and a particular interest. It is an area where our economic interests and security interests really lie. South America should come first. We have been reducing, and I think properly reducing, aid to South America; that aid is to be far less than the $2.5 billion proposed for North Vietnam. But South America is in our backyard, it is underdeveloped, it has widespread poverty, and it needs assistance. If we provide aid, and I am skeptical of much of the aid we provide, that area should have a higher priority than Asia, and particularly aid to a Communist dictatorship in Asia.

Mr. President, if we are going to provide priorities on foreign aid, at the very bottom of those priorities should be aid to dictatorships, and aid to Communist dictatorships. Foreign aid cannot be justified geographically, because this is outside of our zone of interest or immediate interest. With respect to the zones throughout the world, South America and the Western Hemisphere would be No. 1, Europe would be close behind it, then Africa, and then Asia would bring up the rear. But also if we are going to provide aid on any rational, documentary basis, unless the aid is to go to every country in the world, all 140 countries or however many countries there are, then at the bottom of that entire list should be a country that is a dictatorship carrying on hostile actions right now against this country.

For all these reasons I hope the Byrd amendment is agreed to and I hope that Senators who had previously considered the likelihood of supporting the majority leader's motion, which would be made later today to table the Byrd amendment, will reconsider, recognizing the very important and vital clause the Senator from Virginia added to his amendment. The amendment states:

No funds made available—

And these are the important words—

unless specifically authorized hereafter by the Congress.

How anyone who believes in congressional responsibility, anyone who believes in the division of powers and the authority over the purse by Congress could object to that kind of amendment is beyond me. I thank the Senator from Virginia. I congratulate him on his amendment, and I hope that the tabling motion is resisted and that the amendment is agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, the Senator from Wisconsin made a powerful presentation. I think he has put the amendment in clear focus. I am grateful for his strong support.

The senior Senator from Wisconsin is a cosponsor of the amendment along with the distinguished Senator fom Alabama (Mr. ALLEN), the distinguished Senator from South Carolina (Mr. HOLLINGS), and the distinguished Senator from Indiana (Mr. BAYH).

I yield to the distinguished Senator from Alabama.

Mr. ALLEN. Mr. President, I thank the distinguished senior Senator from Virginia. I congratulate the distinguished senior Senator from Virginia on his amendment and I hope that it will not be tabled, but that it will be added to this bill and be finally enacted by Congress and approved by the President.

Mr. President, I rise in support of the amendment by the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

I am unalterably opposed to plans, well on the way to implementation, to reimburse a present enemy which continues to wage war against our allies in Southeast Asia. In the world of reality it matters little by what name we designate the $2.5 billion proposed contribution to North Vietnam. We may call it reimbursement, restitution, reparations, a charitable contribution or an outright gift. The terms are insignificant—the meaning of such action on our part will be determined by what it does, how it does it, and the end result.

From the standpoint of what it does, no one can escape the conclusion that we are called upon to reimburse North Vietnam in the amount of $2.5 billion, presumably, I assume, for damages which that nation incurred in waging an armed invasion of South Vietnam with the purpose and intent of denying to the people of North Vietnam their right to self-determination and for the purpose of subjecting its people to domination and control by a Communist power.

The question of how we accomplish the pay off is also tremendously important. It is a foregone conclusion that barring a miracle, the Congress of the United States is not going to appropriate $2.5 billion to the government of North Vietnam for any purpose whatsoever. That brings up the question of how the transfer of our tax dollars to the government of North Vietnam can take place. The

truth is that it is possible for the administration to supply such massive economic aid to rebuild North Vietnam out of unexpended funds in the Department of Defense budget. Unexpected funds have accumulated in the Department for an extended period of time. The exact amount available is hard to come by. We know from the House Appropriations Committee on Foreign Operations that through the end of the fiscal year 1972, there remains $24.9 billion in unexpended funds in the pipeline from prior years, including appropriated funds and borrowing authority. It is true that the full amount could not be used for foreign aid purposes without the consent of Congress. However, much of it can and it is reasonable to expect that a sufficient sum is available to permit the administration to divert $500 million a year for 5 years to finance the rebuilding of North Vietnam.

In this connection, President Nixon stated in a press conference on March 2, 1973:

> As far as any assistance program is concerned, it will be covered by the existing levels for the budget which we have in for national security purposes. It will not come out of the domestic side of the budget.

In short, unless this Congress acts to limit the expenditure of funds authorized and appropriated for national security purposes, we will find the American taxpayer burdened with the financial costs of rebuilding North Vietnam.

Mr. President, we do not owe North Vietnam a thin dime; and if we reward North Vietnam with $2.5 billion we cannot escape facing up to the consequences of what I consider to be a foolish act.

The United States had an obligation to help defend South Vietnam against aggressors.

I assume that is the theory under which we intervened in South Vietnam. The Communist government of North Vietnam, was aware of that obligation. It could have reasonably anticipated that we would meet our treaty obligations. It could have anticipated the consequences. It could have ended the war at any time in its own discretion without the loss of its sovereignty of its territory and without damage to any of its cities. Instead, the Government of North Vietnam and its Communist allies, Russia and China, persisted in its war of aggression. They vigorously pushed the invasion into South Vietnam and destroyed property and killed with wanton abandon innocent citizens of South Vietnam, who wanted only to live in peace and security.

So, Mr. President, I turn again to the question of the ultimate consequences of what I consider to be sheer folly of rewarding the Government of North Vietnam. Is it not true that the proposed aid and assistance will strengthen the economy of North Vietnam? Is it not true that it will increase its capacity for waging wars of conquest against its neighbors in Laos, Thailand, and Cambodia? Is it not true that to the extent that we aid the Government of North Vietnam we relieve China and Russia and permit these nations to divert more funds in pursuit of their design of military conquests against defenseless nations in Southeast Asia? Is not such a consequence an inevitable result of aid to North Vietnam? Only Congress can prevent it.

Mr. President, there is one other consequence to which we must give sober deliberation. There are those who are even now actively agitating and using their farflung influence to marshal support for the proposition that the U.S. Senate should ratify the Genocide Convention. If we pursue the folly of making restitution to North Vietnam would it not be equivalent to an admission that we were legally and morally unjustified in responding to our obligations to a defenseless ally? Is the United States prepared to plead guilty before the court of world opinion that we were guilty of some undefined international offense? If so, is it not reasonable to expect that the Government of North Vietnam will vigorously prosecute its unfounded charges of genocide against members of the Armed Forces of the United States?

Is it not true that the Genocide Convention recognizes no statute of limitations? Is it not true that under the terms of the convention, acts committed in the prosecution of war included? Is it not true that under international precedent, no defense can be based on the fact that the individuals charged with genocide were following the orders of their superior officers?

Mr. President, it is not my purpose at this time to discuss the proposed Genocide Convention—I assume the opportunity will be granted a little later on during this session of Congress to have a full discussion of that convention if an effort is ever made to have that convention ratified by the Senate—but rather to examine the consequences of the ill-conceived plan to pay reparations to the Government of North Vietnam and we cannot avoid the hideous consequences were we to admit guilt and also ratify the Genocide Convention.

Mr. President, is anyone so naive as to believe that $2.5 billion represents the total claims which the Government of North Vietnam will file against the United States or that the United States, if not stopped by Congress, will voluntarily pay in reparations or in outright gift to North Vietnam?

We have been told that the ultimate amount which we are to pay is subject to negotiation but having admitted guilt and agreed to restitution, why should we think that the Government of North Vietnam will limit its demand to $2.5 bililon?

In addition, the proposed aid to North Vietnam and the rest of Indochina has been compared to the Marshall plan in Europe and the aid given to Japan to rebuild. As was pointed out by the Senator from Wisconsin, it is quite different than the Marshall plan and the aid to Japan. Aid given under the Marshall plan and to Japan was in both cases to former enemies who had been defeated decisively, and, in the case of Germany and Japan these countries were under partial or total American occupation with no possibility of continuing the war. The same is obviously not the case with North Vietnam. Additionally, in each case of aid to defeated enemies after World War II the opposing warring government was no longer in power. In short, this argument will not hold water.

Mr. President, let us turn now to a consideration of domestic consequences. I am convinced that the overwhelming sentiment of the people of the United States is strongly against aid to North Vietnam. The vast majority of our people are not prepared to take on another client nation. The taxpayers are not willing to respond to demands upon them to create an Office of Economic Opportunity for Southeast Asia to include the Communist government of North Vietnam. We have tried and miserably failed to buy off the street gangs in some of our major cities. There is no reason to believe that we can buy off international gangsters represented by Communist governments who remain determined to establish Communist governments in Southeast Asia. We simply cannot capitulate to the demands for access to the Treasury of the United States to aid North Vietnam.

Mr. President, the overburdened, hardworking, taxpaying, Godfearing, dedicated, patriotic American citizen will sacrifice and sacrifice again and again to defend the best interests of this great Nation, and to defend it against its enemies, both foreign and domestic.

But I tell you that the average citizen has too much commonsense and too much gumption to permit the Government of the United States to pick his pockets and pay tribute to the government of North Vietnam.

I might say, parenthetically, Mr. President, that the people of Alabama are more united on this subject than on any subject that has faced the Nation in a number of years. They do not want to see the United States pay reparations, pay damages, pay a bribe, pay money by any other name, to the Government of Vietnam. I am hopeful that this Congress will not permit that to be done.

Our youth were called upon to fulfill the highest duty and responsibility of citizenship when they were called upon to defend the right of free people throughout the world to self-determination and to freedom from armed agression from any source. Too many made the supreme sacrifice in defense of these ideals to say now that it was all in vain. We can never forget that they fought an enemy aggressor who destroyed the towns and villages of South Vietnam with reckless abandon—who killed and slaughtered hundreds of thousands of South Vietnamese with callous ferociousness. Countless thousands of our veterans have returned wounded and maimed in mind and body. Some 50,000 lost their lives and some 300,000 were wounded.

Our prisoners of war have been made to suffer torture and indescribable inhumane treatment at the hands of an enemy we now propose to aid and abet in its designs to disrupt the peace and security of Southeast Asia.

Mr. President, this eventuality will come to pass unless Congress acts affirmatively to prevent it. Therefore, I urge

with all the conviction at my command that the Senate vote for the amendment offered by my distinguished colleague (Mr. HARRY F. BYRD, JR.).

Mr. President, in February 1972, in a newsletter I sent to the people of Alabama, I discussed this very same question. That was more than a year ago, when this issue was surfacing, and it seemed apparent that an effort would be made on the part of the Government of the United States to pay reparations, to pay money, to the Government of North Vietnam.

Mr. President, in years gone by the great countries of the world received tribute from the smaller nations. The Roman Empire had many vassal states. Many governments paid tribute to it to keep the great Roman government from invading their country and killing off their people, or selling them into slavery. However, never before in history, so far as the junior Senator from Alabama has been able to ascertain, has a great nation such as the United States, one with a population 10 times that of the smaller nation, paid tribute to a smaller nation. That is what is being called for by these plans to pay $2.5 billion to North Vietnam.

Mr. President, we have seen these programs of the Federal Government start out sometimes on a modest basis and in a very short time build up many times over. They snowball and get larger and larger and larger. And when we talk about the payment of $2.5 billion, that would just be the tip of the iceberg. In another year or 2 or 3 or 4 or 5 years, that would be magnified beyond recognition, and the American taxpayers will be called on to foot the bill for rebuilding North Vietnam.

North Vietnam has never disavowed any intention of taking over South Vietnam. It has never disavowed any intention of taking over all of Southeast Asia. However, we would be, after having lost the lives of 50,000 American boys, after having suffered 300,000 wounded, and after having spent $150 billion, starting to provide economic assistance to North Vietnam. It is a very, very foolish procedure in the judgment of the Senator from Alabama.

Mr. President, the little report that I wrote, among other items back to the people of my State in my newsletter, states:

"Against" bribe to Hanoi—My support of the President's efforts to bring to a close our participation in the Indochina war is a well known fact.

I have supported on every occasion that the issue has come before the Senate the President's position with respect to the conduct of the North Vietnam war.

I continue to read from my newsletter:

The President's proposals for ending the war are most generous.

That was back before the cease-fire came into being.

I continue to read from my newsletter:

However, I oppose the plan announced by the State Department to spend $7.5 billion rebuilding Indochina, of which $2.5 billion would be spent in North Vietnam. Doubtless this would be just the start of the spending. Thus, our country would be admitting guilt for the war, and the American taxpayer would be paying reparations, like a defeated nation, to rebuild a country whose armies have killed 50,000 American men, wounded more than a quarter of a million, and which cruelly mistreats American prisoners of war.

The payment of this bribe, for that is what it would be, will have my strong opposition. In the words of a famous toast, usually attributed to Charles Pinckney of South Carolina, at the time when the Barbary pirates were demanding tribute from the United States to refrain from attacking our ships in the Mediterranean and in the Atlantic, "Millions for defense, but not one cent for tribute."

Certainly I believe that that is the issue set forth by the Byrd amendment. Certainly I would side with the position of the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.).

I would be willing to see millions spent for defense—and, of course, we are spending billions for defense, which I approve of—but I do not favor spending one cent for tribute.

I therefore hope that the expected motion to table the Byrd amendment will not carry and that the amendment will be agreed to.

Mr. HARRY F. BYRD, JR. Mr. President, I am very much impressed by the remarks of the distinguished Senator from Alabama. I think he went right to the heart of the problem, right to the heart of the amendment, and right to the heart of the issue which faces the Senate.

The able Senator from Alabama pointed out that there are huge unexpended funds already appropriated by Congress. If Congress fails to adopt this amendment today, stating that no funds shall be used for the benefit of North Vietnam unless specifically hereafter authorized by Congress, then these huge unexpended balances could be available for transfer to North Vietnam. I think it is very important that Congress realize the existence of these unexpended funds, and the able Senator from Alabama brought out so very clearly, in his comments, that very important point.

The Senator from Alabama also brought out the fact that there is a vast difference between the situation existing with North Vietnam today compared with the situation that existed with Germany, Japan, and Italy following World War II. The point has been stated that because of what the United States did with regard to Germany, Japan, and Italy following World War II, something similar should be done with respect to North Vietnam.

But I want to reemphasize, as the Senator from Alabama pointed out, that there is a vast difference. The governments of those countries were destroyed.

The aggressive leadership in each of those countries was eliminated, and the United States took over the occupation of those countries—either the United States alone or the United States in concert with allies.

None of that exists in North Vietnam. As a matter of fact, North Vietnam already, at the present time and under the cease-fire agreement, has 230,000 hard core troops in South Vietnam today.

In addition, I have in my hand a United Press International bulletin that has just come in from Saigon. It reads as follows:

SAIGON.—Communists launched attacks in all of South Vietnam's four military regions today, touching off the heaviest fighting since the Jan. 28 cease-fire and stirring fears of a new North Vietnam-Viet Cong offensive.

The fighting ranged from the far north, where the Communists pumped 785 rounds of artillery and mortar fire into a South Vietnamese position in a single 20-minute period, to the Mekong Delta in the south, where 16 Communists and 23 South Vietnamese died in a three-hour battle.

One military source said the Communist attacks were probes designed to find a South Vietnamese weak spot and prepare for a major offensive.

I think, Mr. President, that that again is indicative of how different the situation is today from what is was at the end of World War II in regard to Germany, Japan, and Italy.

In a moment I shall yield to the distinguished majority leader, but before doing so, I ask that the clerk read the pending amendment.

The ACTING PRESIDENT pro tempore. The clerk will read the amendment.

The legislative clerk read as follows:

At the end of the bill, insert the following:

No funds made available by the Congress to any department or agency of the Government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the distinguished majority leader.

Mr. MANSFIELD. I thank the distinguished Senator from Virginia.

Mr. President, I shall support the pending amendment, because it is in line with the statement made by Dr. Henry Kissinger when he met with a group of Senators in this building after his return in January, I believe, and it is in line with statements made by the President of the United States, to wit, that before any action was taken, the administration would present to Congress any proposal which had been tentatively agreed to or which was under the most serious consideration at that time.

But, Mr. President, in accepting or rejecting the amendment, we will not dispose of the question of aid to North Vietnam or, indeed, to all of Indochina. That question will arise and arise again in the Senate until it is faced on the merits of the issue. That is as it should be; and that is as it will be. So, I want to set forth my position at this time on the substance of the question.

I have already expressed my full support of the President's negotiating effort which has brought about a tentative cease-fire in Vietnam and Laos, a withdrawal of U.S. Forces from Vietnam, and the return of the prisoners of war. As an essential of the success of those negotiations, the President asked for an invest-

ment in peace. A part of that investment, as he made clear, is in the form of aid in the reconstruction of the war's havoc throughout Indochina.

There are those who are against that aid, who would find fault with the President's proposal. There is, in particular, a reluctance to go along with his proposal to provide postwar assistance to North Vietnam. It is an understandable reluctance. Feelings run strong now, as they did with regard to Germany and Japan at the end of World War II and as they do at the end of every war. Feelings aside, the fact remains, Mr. President, that we paid a terrible price, in a futile effort to fight this war to an end: 303,000 Americans wounded in combat, almost 46,000 Americans killed in combat, 10,300 Americans dead as a result of nonhostile action, overall 360,000 American casualties, including more than 25,000 paraplegics, quadriplegics, or disassembled men as they have been called. The monetary cost? We have spent between $130 and $140 billion to date; the eventual full cost may be expected to go to $450 billion and to saddle the people of this Nation with debts well into the next century. Moreover, what of the divisions produced by the war at home? The drug infestation? The inflation? The dwindling value of the dollar? The decline in respect for our political institutions?

Those are some of the costs attributable to the war, and if we can bear them, it seems to me, Mr. President, that we can and should bear part of the more nominal and constructive costs of healing the wounds of Indochina. There, too, in all parts of that war-torn area, the suffering has been real and overwhelming: Hundreds of thousands of men, women and children killed and maimed; vast areas of forest and croplands reduced to deserts; thousands of cities, towns and hamlets leveled; millions made homeless.

Peace is healing. Peace is the putting aside of anger. Peace is reconstructing and building. So on February 27, I expressed the hope and desire to cooperate with the President of the United States in his efforts to embark on a decade of peace, the first step of which would be the negotiated end of the war in Indochina. I indicated at that time that I would support his proposals for peace even though they involved postwar aid to all of Indochina. I offered that support, however, subject to various criteria which I was then trying to delineate in my own mind. One of those criteria, Mr. President, is now clear to me and it is best that it be set forth at this time.

I am inclined to support the President's position on Indochina, provided, in the first place, that a cease-fire is, in fact, reasonably operative throughout Indochina and we are militarily out of that situation lock, stock, and barrel. It is with regret, therefore, that I note that such is not the situation today. Where is the peace? Where is the disengagement? How can we speak of rebuilding when B–52 bombers, day after day, are still making some of the heaviest bombing runs of the war? When we continue to face the prospect of more casualties, more POW's and more MIA's?

Where is this transpiring, Mr. President? In Cambodia, of all places. Cambodia, never was more than vaguely peripheral to the conflict in Vietnam and only by a great stretch of reason could it be connected with the withdrawal of U.S. forces from Vietnam. The ill-fated excursion across the Cambodian borders 3 years ago had no discernible effect on the outcome of the conflict other than to add greatly to our costs and casualties and saddle us with still another dependent government. Cambodia's internal political situation never was and is not now remotely connected with any reasonable interest of the people of the United States.

Yet, here we are at this late date digging ourselves deeper into another tragic military involvement, inflicting one more vast compass of devastation on one more hapless land, in support of one more irrelevant government, in one more obscure region of Indochina. In my judgment, to continue to pursue this vein is to cast into doubt all that has been achieved by way of negotiation in Vietnam.

So, Mr. President, I reiterate my inclination to support the President's position, which is a valid one in my judgment, as a measure of decency, as a share of our responsibility for developing international peace, and as a contribution to the healing of the wounds of a terrible war. But I cannot and I will not vote for funds for reconstruction in North Vietnam or South Vietnam or wherever in Indochina if we continue to put out great sums to pay for continual bombing runs over Cambodia which risk the ruin of more American lives. Unless this last-gasp practice ends forthwith, the war in Indochina will not be ended. In the circumstances, I can see little point in supporting any aid program for any part of Indochina.

Mr. PROXMIRE. Will the Senator from Montana yield briefly?

Mr. MANSFIELD. Yes, indeed.

Mr. PROXMIRE. May I ask the majority leader if, by his speech, in which he places a series of conditions on his support for aid to North Vietnam, if——

Mr. MANSFIELD. To Indochina.

Mr. PROXMIRE. Indochina, that is right—not only North Vietnam, South Vietnam, but any aid to Indochina—if he feels that the Byrd amendment as modified, and as such is dramatically improved, would not receive his support? As the amendment reads now, aid to North Vietnam shall be prohibited unless specifically authorized hereafter by Congress.

Mr. MANSFIELD. I have indicated my full support for the Byrd amendment as modified, because it is strengthening and recognizes the responsibility of Congress. It fits in very well with what Dr. Henry Kissinger told us when he met with Senators in this part of the Capitol in late January, at which time he said that any proposals which would be forthcoming would first be sent to Congress for consideration, discussion, debate, and approval or disapproval. The President of the United States has said the same thing. What we are doing is based on what has been said before, but putting it down in the form of an amendment which will have the effect of law.

Mr. PROXMIRE. If the Senator will yield a little further, let me say I am delighted to hear this. Earlier, I had said—but I was misinformed—that I understood the majority leader would move to table the Byrd amendment. That statement of mine was in error and I am happy that it was. I now understand that the distinguished majority leader will support the Byrd amendment.

Mr. MANSFIELD. Yes indeed.

Mr. TOWER. Mr. President, will the Senator from Montana yield?

Mr. MANSFIELD. I yield.

Mr. TOWER. I might note that not only did Dr. Kissinger and the President both say they expected to get the authorization of Congress for any such proposals, but they made it clear to North Vietnam at Paris that Congress approval would have to be forthcoming.

Mr. MANSFIELD. Yes. I think the communique by Presidents Thieu and Nixon at San Clemente the evening before last said in effect—I will have to paraphrase it freely—something to the effect that each President would have to take this matter up with their respective congresses.

Mr. President, I ask unanimous consent to have printed in the RECORD the text of the statement I made in the Senate on this subject on February 27, 1973.

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

Mr. MANSFIELD. Mr. President, I commend the distinguished Senator from Vermont for the temperate statement he has made today, which fits in with his call for bipartisanship several days ago.

I note that on page 6 of his speech the Senator states:

"The cease-fire is only the bare beginnings of peace in Indochina."

How true. And just how tenuous that cease-fire is, of course, is manifest in the fact that in South Vietnam, in Cambodia, and in Laos the fighting is still going on.

So I commend the distinguished Senator for his remarks, because what he does is to raise a flag of caution. What he is primarily interested in, as I am—and I am sure the entire Senate and the total American population—is three things: One, a cease-fire in fact as well as in being; two, the continued withdrawal of all U.S. military personnel from Vietnam, a process which is in operation at the present time—and it is my understanding that the number remaining at the moment is somewhere between 11,000 and 12,000—and, three, the return of our POW's and the recoverable missing in action.

Those are the three most important factors. When we reach those objectives, then I think we can begin talking about assistance, if any such proposal is made, under article XXI of the agreement. But I think that in the meantime we ought to give the man downtown—the President—a chance to work these things through, following this tentative settlement—and that is all it is at the moment. We must try to make certain that there will not be a return to warfare in which we will become engaged and that there is an opportunity to establish a basis for a peace in that part of the world not only for the indigenous peoples concerned but for this Nation as well.

The distinguished Senator says on page 7 of his speech:

"There will be plenty of room for debate and discussion over the form that the reconstruction presence in Indochina should take."

Again, the Senator is correct. There will be a right time for a proposal to be made, based on the circumstances which exist at that time. Those circumstances, to get back to what originally was said, depend on a cease-fire in fact, depend on the total withdrawal of all U.S. military personnel and the release of all prisoners of war and recoverable missing in action.

As the distinguished Senator says in his speech:

"But the purpose will be to discourage more war and to encourage more peace."

The Senator is right. I hope that his speech has been listened to and will be read by those who are interested in that part of the world and our role in it and that they will be aware of the fact that the war is not over; that there is only a tenuous truce; that we still have POW's and recoverable MIA's in North and South Vietnam, in Cambodia, and in Laos; that we still have between 11,000 and 12,000 military personnel to be withdrawn, and that the truce at the moment is at best delicate; it is far from being a cease-fire, in fact.

I would hope we would follow the advice of the distinguished Senator from Vermont; that we would withhold our own fire for the moment, at least, and give the President a chance, based on the facts as they exist and in accord with what I have stated this afternoon, to present to the Congress a proposal, a proposal which I am sure Congress will disect and go into thoroughly, and a proposal on which Congress itself will have to make a judgment, as well as the President.

I thank the Senator for yielding.

Mr. AIKEN. Mr. President, I take this time to thank the majority leader for the remarks he has made and to state that I do not regard the Paris conference as even being a near approach to Utopia. There will be problems and violations of the agreement which has been reached, but we have made one step and I want to make plain that we cannot consider seriously any expenditures for reconstruction, and so forth, until all of our prisoners of war have been released.

Mr. MANSFIELD. Mr. President, I am in accord with the views just expressed by the distinguished Senator. As he knows, for years I have had three objectives, which I have mentioned and which I cannot reiterate too often. I have sought for years to bring about a ceasefire, not only in Vietnam, but in all of Indochina. I have sought for years to bring about the extrication of our forces from Vietnam and Indochina. I have sought for years to bring about the release of the prisoners of war and the missing in action.

These objectives seem—and I emphasize the word "seem"—to be on the way to a final solution, which may well be contingent on the "investment in peace" in all of Indochina. What the President said about an "investment in peace" may well be part of the price of ending this ghastly war, an objective so much desired by all of us and paid for over such a long period of time by over 303,000 Americans wounded in combat, by almost 46,000 Americans killed in combat, by 10,300 Americans dead as the result of nonhostile action, by an overall total of almost 360,000 American casualties in this war.

Concurrent with that human cost is the monetary cost of between $130 billion and $140 billion to date, a cost which will eventually amount to between $350 billion and $450 billion, and which will saddle the people of this Nation well into the next century.

It is good, indeed, that at long last this longest, most tragic and second most costly war in all our history may be coming to an end. In the words of Dr. Kissinger, in his superb exposition at his press conference in mid-January, it is time that "Together with healing the wounds of Indochina we can begin to heal the wounds of America."

Subject to various criteria which I am working on at the present time, I think we ought to give the President's proposals, when and if they come up, every reasonable consideration, because our chief objective, as I am sure it is his, is to bring about, finally, peace and stability in Indochina. It would be our hope and desire to cooperate with the President of the United States in his efforts to embark on the "decade of peace" which he has stressed so often during this administration.

I thank the distinguished Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I now yield to the distinguished Senator from South Carolina (Mr. HOLLINGS) but before yielding ask unanimous consent that the following Senators may be made cosponsors of my amendment as modified:

Senators CHURCH, CASE, and ROBERT C. BYRD.

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

Mr. HOLLINGS. Mr. President, I join my distinguished colleague from Virginia (Mr. HARRY F. BYRD, JR.) in the submission of his amendment, and in the addition of the words "unless specifically authorized hereafter by the Congress."

This amendment is a model of Clarity and Foresight. It spells out a policy—a policy that is right and a policy that is necessary.

We read today how the war continues. The guns fire, the enemy invades, the bombers fly. The war is a cancer. It is a poison.

Now, as so many times before in the history of this war, our people are searching for the truth. The American people have never been leveled with on the war. That is the reason for this amendment. That is what makes this amendment necessary.

When 43 Senators met with Dr. Kissinger for his briefing on January 26 in room S. 207—we had read in the news media reports about aid programs to North Vietnam. The actual amount mentioned was around $2½ billion.

On that January 26, Dr. Kissinger's answer was, no, there is no reference in the agreement, directly or indirectly, to any aid to North Vietnam. In fact, he said, in positive and adroit terms, that he will oppose such mention, inference, or reference thereto. He said that that would be reparations, and that the U.S. Government is not going to pay reparations. That was not even discussed, he said. It was not inferred. It was not mentioned, directly or indirectly.

Then, to our amazement we read the terms of the Paris agreement, article 21 of that agreement stated:

The United States anticipates that this agreement will usher in an era of reconciliation with the Democratic Republic of Vietnam, as with all the peoples of Indochina. In pursuance of its traditional policy, the United States will contribute to healing the wounds of war and to post-war reconstruction of the Democratic Republic of Vietnam and throughout Indochina.

That is the text from the cease-fire agreement. This was pointed out and has been referred to not by the administration, not by Dr. Kissinger, but by the North Vietnamese. So would it not be nice if we could rely on what the leadership—and I am talking about administrative leadership, first Democratic and now Republican, has told us about Indochina?

But the rhetoric and the statements have always been misleading—throughout the course of this long and costly war.

Bombing has been called "protective reaction." Invasion was "an incursion." We have even followed that kind of misleading terminology into our domestic programs with deficit spending becoming a "full employment budget," and now we have aid to Vietnam—in reality, reparations. What the Senator from Alabama characterized as a bribe is now "healing the wounds of war."

Now is the time to bring some clarity and directness into our policy. It is time to make certain that North Vietnam is under no misapprehensions about America's intentions. The world should know our policy. The administration should know that there will be no funds for aiding the North, so that Dr. Kissinger is under no more illusions when he goes to the bargaining table.

I plead genuinely, Mr. President, that if we really want to honor the prisoners of war, if we want to honor the 2½ million who were involved, if we want to honor the 56,241 Americans who lost their lives and the 303,616 who have been maimed, all of us should begin, as best we know, to speak the truth about this war. It has not ended. It has not ended, as the majority leader emphasized, because the North Vietnamese never did think they were ending the war. They never posed as ending the war. They never started down the road toward peace, and they never said anything other than "victory" and "march on."

Earlier this year I visited, along with the distinguished Senator from Alaska and others, some eight countries in the Far East, a somewhat similar visit to that made by the Vice President. Ours was in January. We saw the same things, to our amazement, still going on—the same confusion, the same obscurity of missions.

In 1966 I had visited Laos. We saw the war there, although the Democratic administration tried to hide it just as the Republican administration fails to come clean on Cambodia. In 1966 when we asked what our mission was, we were told the mission was to keep the Chinese out, to contain the Communist hordes. In 1973, I asked what our reaction was going to be to the Chinese-built roads which hook up with Laos, Thailand, and over toward North Vietnam. By the way, the existence of these roads was top secret, we were told. The briefers almost got under the table to tell the Senators. The next morning I read all about it in the Stars and Stripes. One road was built within 10 kilometers of Thailand, another down to the captal of Laos, and another in the direction of North Vietnam.

Why had we not knocked these roads out before now? They would fall into the valley and would take years to rebuild.

The response was, "our orders are not to disturb the Chinese."

In 1966 the mission was to keep the Chinese out, and in 1972–73 the orders had been to give sanctuary to the Chinese, that is why I asked Dr. Kissinger,

on January 26, "Have the Chinese joined in the agreement?"

Everybody looked as if to ask, "Where did that fellow come from? How did they get into this war?"

But I am still waiting for an answer to my question.

The mission in Cambodia, we were told, was not to bring about a free Cambodia but a coalition government. But in South Vietnam all the talk was about a free government. No wonder we have been confused. And now we are told that the war is over.

When we got into Vietnam, I found no one in a position of responsibility who really believed the war was ending. That was the one impression I came back with at the end of January, so it surprised me when we all started talking about the end of the war.

The President, himself, made a very dramatic trip to the General Assembly of South Carolina, in February, toward the end of that month. He made an outstanding talk. Among other things, he said:

Now that we have brought an end to the war—

I had just come back from Indochina and I knew differently. But I had to listen. It was not incumbent upon me, as an individual Senator, to try to raise waves or differ with the Commander in Chief. We were playing the game of "shut your mouth and get the prisoners back."

The President said:

Now that we have brought an end to the war, let us honor them all, and the way to honor them, I say, is for us to work together to build a lasting peace in the world, a peace that can last not only in Southeast Asia, but a peace that the United States can help to build for this whole world in which we live.

Again, he said:

Ending a war is not unusual for the United States. After all, in this century we ended World War I, we ended World War II, we ended Korea, and now we have ended the American involvement in Vietnam.

Farther down he said:

Now, when we consider those great events, combined with the end of the war in Vietnam—

Yet the war goes on. The fighting still rages. And here is our problem—we cannot call a thing as it is. We continually refer to "peace," but I am reminded of the Old Testament and Jeremiah saying "peace, peace, when there is no peace."

I hope for peace. I am working for peace. But when you have going on in South Vietnam what has ensued since the end of January up to the present moment, I say categorically to the distinguished Senator from Idaho that the North Vietnamese, by way of manpower, by way of ammunition, by way of supplies, by way of tanks, by way of 130-millimeter rifles, have built up more strongly this very minute in South Vietnam than they were on March 30 of last year, at the time they launched their last great offensive.

Mr. CHURCH. Would the Senator agree that we have no peace, that we have no cease-fire, that we have, rather, a ceaseless fire in Vietnam, Laos, and Cambodia?

Mr. HOLLINGS. The Senator is correct. As he characterizes it, it is a ceaseless fire that continues.

We were briefed about the armament and artillery. These 130-millimeter guns are moving down; there are more than 400 tanks—all in the last 3 months. Everyone is going around talking about peace, talking about "healing the wounds of war," and hailing the end of the war. I think we ought to tell the truth, because therein is our trouble. We have not really come clean with the American people on this particular mission.

I should like to emphasize one other thing, and that is the language that has just been added by Congress. I think a bit of senatorial history ought to be recalled. I am reminded of one of the greatest legislative and military minds of our time and certainly one of the strongest voices for national security in the history of the United States. His name was Richard Brevard Russell. Unfortunately, we have all been divided as either doves or hawks. We do not like it, but the public and the news media and everybody else use those terms. Let me get into the history of a hawk, the late Senator Richard Brevard Russell of Georgia.

He stated time and again, particularly during our policy committee meetings, that as chairman of the Committee on Armed Services, he would sit there, and President after President would travel all around the world and make all kinds of American commitments. They would bring back camel drivers; they would bring back anything; and they would give you a bill. He said that, sitting there, he wanted to be loyal to the Commander in Chief; he wanted to be supportive of national security and national defense; but it had gotten completely out of hand. He knew something had to be done to limit these open ended commitments.

So the commitments resolution, as submitted by the distinguished Senator from Arkansas (Mr. FULBRIGHT), was at the request of the Senator from Georgia, Mr. Russell, who was chairman of the Committee on Armed Services. The Senator from Georgia did not feel he had the strength at that particular time to propose it, but he supported it strongly.

That is what we are leading into with respect to North Vietnam—the administration playing on words and acting as though those who would oppose it would oppose an investment in peace. That sounds nice—that is nice to send around the land. "The war is over, and it is an investment in peace," but the fact is we have a bigger war than ever and the greatest infiltration into that particular land that we have ever had. So now we cannot rely on words. We have to coordinate. If the President and the administration would take us into their confidence—certainly not junior Senators like myself, but at least the leadership—so they would know what is going on, amendments of this kind would not be necessary. But today they are absolutely necessary under the circumstances where we are calling war "peace," and calling a step-up an "ending." Let us instead call a fact a "fact." And let us call the truth "truth."

The amendment as presented by the distinguished senior Senator from Virginia is clear and to the point. It prohibits aid to North Vietnam unless expressly hereinafter authorized by the Congress. No funds would be made available to provide assistance of any kind, direct or indirect, on behalf of that country.

History and logic both argue against spending American dollars to rebuild North Vietnam. We became involved in Vietnam to keep the North from imposing its government and its ways on the South.—Now after the longest war in our Nation's history—56,241 American deaths—303,616 Americans maimed—and $140 billion—we have provided the South Vietnamese with a fighting chance to survive. If they can hack it on their own, with some American aid, the South Vietnamese can enter a new and better age.

But what chance will they have to succeed if we now turn around and pump American dollars into the homeland of the enemy and at a time when the guns of war still sound and the fighting goes ceaselessly on?

Let me touch on another thing that I do not believe has been touched on with respect to the December 18–28 bombing raid that we were briefed on in Saigon. We were briefed by Gen. John Vogt, who is one of the best military minds I have come in contact with. It looks as if they had to get a Yale man to take care of that West Point crowd. He is one of the few persons who has told it like it was, with candor and without giving people the run-around. We could not find anyone else who was willing to do that. Senators know about the Lavelle hearings.

General Vogt said:

I am responsible for the B–52 raids; I am responsible for the F–111 raids, I am responsible for the North Vietnamese raids and the South Vietnamese raids. I am the one who is responsible. You ask me.

Mr. President, that was refreshing.

He outlined with meticulous care and precision how the raids were carried out. Rather than downtown bombing of Hanoi it showed, careful bombing aimed at strategic targets. In particular terms, over that 10-day period, with thousands of bombs raining down, there were only three misses. It showed, even according to inflated North Vietnamese figures, 2,600 killed or injured in that massive raid. That was further substantiated by my viewing of the Walter Cronkite news. Liz Trotter did a report from Hanoi which showed that although the city looked rundown, that was normal and primarily it was military targets that were hit.

Therein we see once again the failure of the administration, to come clean and tell the truth. Jerry Friedman of the Defense Department appeared on morning television, and he said, "What hospital?" rather than to admit that a hospital may have been unintentionally hit. Everything that had been told to us by General Vogt could have been told to the American people, completely, candidly, and openly. There was no need to hide any of it. Our facts should have been told

by the administration to everyone and then we would have approached the truth of what was going on.

It was the military targets that were hit. So when we talk about healing the wounds of war, we are talking about rebuilding military targets; that is, what generally have been hit in the area of the north.

We have lost many a young American who would have loved to return as a prisoner of war. They spent their duty flying down gun barrels just to hit wheelbarrows over that 10-year period. America's finest were called on to hit nothing when all the while valuable military targets were there. It was not until December of this past year that we finally brought about the proper type raids that we should have had 10 years ago. Had we started out like that, the end result would be more favorable and the war would have been much shorter.

Mr. STEVENS. Mr. President, will the Senator yield for a few questions?

Mr. HOLLINGS. Yes, sir.

The PRESIDING OFFICER. The Senator from Virginia has the floor.

Mr. STEVENS. Mr. President, I ask unanimous consent that I may be able to ask a few questions.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the distinguished Senator so that he may ask a few questions.

Mr. STEVENS. I wish to address a few questions to my friend, the Senator from South Carolina.

Mr. HARRY F. BYRD, JR. I yield for that purpose.

Mr. STEVENS. I thank the Senator.

The PRESIDING OFFICER. The Senator is recognized.

Mr. STEVENS. My friend, the Senator from South Carolina, said the President has misled the American people and ought to come clean. It is my understanding that both the President and administration spokesmen, and Dr. Kissinger, when he appeared before us, said if any aid was to be given to North Vietnam following the cessation of hostilities that they would come to Congress.

Does the Senator have any information that aid has been given to North Vietnam yet?

Mr. HOLLINGS. The information I have is of the likelihood, without the approval of Congress. The words I pointed out by Dr. Kissinger on January 26 that no reference was made direct or indirect in the agreement concerning aid are contrary to the wording of article 21.

As I emphasized in the beginning, and I believe the distinguished Senator from Alaska was not in the Chamber at the time, I have yet to hear either this administration or the previous administration give me a complete and accurate picture of Vietnam.

Mr. STEVENS. I am worried about this amendment. It states "providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam."

Mr. HOLLINGS. It does not end there. It has been changed.

Mr. STEVENS. I understand. It has been changed to add "unless specifically approved by Congress." That has been added. But I understand we provided some helicopters to North Vietnam to fly down to meet with our people. Is that assistance of any kind?

Mr. HOLLINGS. Any kind. I would not give them a helicopter. I would not even give a helicopter to our side. That is one of the reasons we have stayed there for 10 years. We would have left sooner if we had not had all of those helicopters whizzing around yak-yaking in a circle, and then going back to the barracks and then coming out and going around again, and if that was not successful, they would napalm the area, and if that was not successful they would bomb it, and then burn it out. Is it any wonder we did not advance?

I believe that one of the real military goofs was the invention of the helicopter. I would get rid of them on both sides. [Laughter]

Mr. ROBERT C. BYRD. Mr. President, may we have order? Will our aides not engage in laughter and noise making.

The PRESIDING OFFICER. The Senate will be in order.

Mr. STEVENS. I understand we are about to embark on a very serious matter of trying to find people who are still missing in North Vietnam. Again, with respect to "providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam," these investigation teams and our graves registration people, if they would provide transportation for the North Vietnamese—obviously they will have to go to our people in that country—if we provide any assistance to them, financial or otherwise, to assist in the location of our people missing, is that in violation of the amendment?

Mr. HOLLINGS. We can find our graves. The Senator can propose that language as an amendment and we can look at it. But it is a fact that there is a war going on. The enemy is building, he is moving in tanks, guns, and antiaircraft. He is extending the field at Que Son. The North Vietnamese have put in two antiaircraft regiments and SAM sites. Here they are coming down, making war as hard as they can and we naively sit around talking about whether to give them aid. That does not add up in my mind.

Mr. STEVENS. Has there been anything before this Congress to date to indicate that what the Senator said is, in fact, the situation, that the President has misled the Congress or the American people concerning aid to North Vietnam?

He has said that we are exploring it. He has said he will come to Congress and seek authorization for it.

What really is behind this amendment—and I say this with all due respect to my good friend and neighbor from Virginia—is that this is telegraphing the punch that there is going to be no aid.

That is not what the Senator is saying. He is not saying that. He is not saying, "Until you come to Congress there is not going to be any." I say that those who vote for this amendment are going to assure that there is going to be a buildup in South and North Vietnam. They are going to assure that they do not look for our missing in action. They are going to assure that the North Vietnamese will continue the war. The President is trying to maintain peace. Those who vote for this amendment do not want to give him the ability to maintain the peace. They want to assure that there will be no chance whatsoever that there will be a working relationship with North Vietnam.

I have never stated I am for aid for North Vietnam, but I am for giving the President the ability to negotiate the ability to try to work out a lasting peace with North Vietnam, and Laos, and hopefully, eventually, with Cambodia.

This amendment does not seem to be going that way. This is like the amendment that some voted for that said, "Cut off the funds for war in Vietnam." I wanted to get it over, but now that it is over I do not want to start it up again.

It seems to me that what the Senator is saying is, "Let us send them a message"—something I have heard before—"Let us send them a message that there is not going to be any aid to North Vietnam." That is what the amendment really is.

Mr. HOLLINGS. There is nothing misleading in the Senator's amendment. The Senator from Alaska used the expression "maintain peace." He used the other expression, "the war is over." I say, poppycock. The Senator knows that is wrong. The President knows it. That is the kind of misleading and misrepresentation I am talking about.

We have waited since January 1—the doves and the hawks and everybody else. We have said nothing, hoping to encourage the release of the prisoners. But now that we have them back, we have to speak more candidly. And we have to view this proposed aid to North Vietnam for exactly what it is.

Under the Senator's approach, if we do nice things and we look like we are going to give aid, we can maintain the peace. The North Vietnamese have said categorically, "Forget it. We are moving in. We are moving in as fast as we can." Let us face the facts. Being sweet to Hanoi is not going to buy us peace.

I have made the statement that in that brief period from January 1 to today, April 5, they have built up their forces. I will be more particular about it. In the Third Corps region, they are bringing in more men, more tanks, more antiaircraft guns. They were doing this before March 30 and now they are further stepping up the pace. That is the kind of thing I mean. There is no peace. There is nothing to maintain. There has not been any end of the war.

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

Mr. HOLLINGS. I yield to the Senator from Georgia.

Mr. HARRY F. BYRD, JR. Mr. President, I yield to the Senator from Georgia for the purpose of asking a question.

Mr. TALMADGE. I thank the Senator.

I am sure the Senator from Carolina is acquainted with the distinguished career of a famous South Carolinian, Charles Cotesworth Pinckney.

Mr. HOLLINGS. Yes, the XYZ affair.

Mr. TALMADGE. That distinguished South Carolinian was Ambassador to France during the time when the French were harassing American vessels, and the French sought some tribute as an inducement to stop harassing American vessels. Charles Pinckney's famous reply, which echoes down through the history of this Republic until this day, was, "Millions for defense, but not one damned cent for tribute." Is that correct?

Mr. HOLLINGS. That is correct.

Mr. TOWER. I do not think the word "damned" was in it.

Mr. TALMADGE. Yes, it was in there. The erudite version of it left the word "damned" out. I have had it researched by the Library of Congress.

Mr. TOWER. May I say that a distinguished nephew of his, J. Pinckney Henderson, was a Governor of the State of Texas.

Mr. TALMADGE. Is it not a fact that they haggled and haggled—the North Vietnamese and our representatives—over whether to use the word "reparations" instead of restoration of North Vietnam? Is that not correct?

Mr. HOLLINGS. I understand on one hand it was, but I heard Dr. Kissinger say his negotiating stance was that there would be no payment of reparations and we would not even consider it. Somebody has been misled. And somebody has been doing the misleading. As the distinguished Mendel Rivers used to say, "There is no education in the second kick of a mule"—not to say anything about a fifth kick.

Mr. TALMADGE. I have read all the reports I can get my hands on, not the secret ones, but those which have been published, and I understand the original version had the word "reparations." It is my understanding now that the North Vietnamese claim they won the war and this in fact would be reparations.

I thoroughly agree with the views of the distinguished Senator from Virginia and the views of my distinguished colleague from South Carolina. It would seem to me to be ludicrous to the extreme, at a time when the North Vietnamese continue to send troops and tanks into South Vietnam, to talk about paying reparations to an enemy of 10 years, when we would not fight and would not quit. Now they are demanding assistance from a government that has had to devalue its currency twice in 14 months, a government which is trying to find ways and means to stop spiraling inflation. Under these conditions, I am not in favor of giving foreign aid even to our friends, let alone our foes.

I thank the Senator for yielding.

Mr. CHURCH. Mr. President, will the Senator yield for an observation?

Mr. HARRY F. BYRD, JR. Mr. President, I am glad to yield to the distinguished Senator from Idaho for an observation.

Mr. CHURCH. I thank the Senator.

Mr. President, I commend the Senator from Georgia for his statement. It matters not what we call the money—the world will regard any money paid by the United States to North Vietnam as reparations for the bombing. Our purpose may be to purchase Hanoi's compliance with the terms of the truce, but whether it is ransom to keep the truce or reparations for the bombing, neither fits within my concept of peace with honor.

What the distinguished Senator from South Carolina has said this morning ought to be echoed throughout the land. There is no peace now. There is no cease-fire, but a ceaseless fire. Only this morning the wire services dispatches brought us word of a continuing, massive military buildup on the part of North Vietnam in the South, contrary to the terms of the settlement.

If we are going to assume the responsibility for maintaining this tenuous truce—a pact which settles none of the issues over which the Vietnamese have spoiled for over a generation—then let us recognize that it will become necessary to return to Indochina with the Armed Forces of the United States.

That is the issue. I would hope we make it plain, through the enactment of the Harry F. Byrd, Jr. amendment, that Congress shall insist upon its right to review in advance and then determine what the American course of action shall be in the future.

That is precisely what this amendment does. It does not prejudge the future; it says no aid shall be sent to North Vietnam without the prior consent of Congress. Had we taken that precaution years ago in South Vietnam, we might never have become involved in the longest and least decisive war of our history.

Mr. HOLLINGS. Mr. President, in conclusion let me emphasize that when I use the expression "misleading," I would use another word if I could think of a more diplomatic term. However, I have never been too good at that. Others are more gifted than I am at such wordsmanship.

I am not impugning the integrity of the President. I support the President of the United States, and we are in agreement on many programs before the Congress. However, when it comes to this war, and all the confusion and smokescreens, we must search out the truth. Let us look for a moment at Cambodia. History shows us the statements of the President and the statements of Dr. Kissinger that our 1970 entry into Cambodia was not an invasion. Dr. Kissinger said it was not an invasion. This was a "surgical operation." We were going in to cut away the sanctuaries. We are not invading, and we had no idea of remaining there. There was no authority for us to be in Cambodia. And that was supposedly that.

But where are we this morning? We are still in Cambodia 3 years later. That is what I am talking about when I talk about misleading. I could give the Senate example after example after example of how we talk about peace when there is no peace, and how we talk about ending the war when the enemy is stepping it up at this very moment.

Apparently the administration is hoping that the North Vietnamese will be easier to deal with if they are showered with money. The rationale of Dr. Kissinger is that during all their lives, the North Vietnamese have only been engaged in Communist building and fighting. But now, with democratic aid for the first time, they would immediately turn to democratic ways and the building of peaceful institutions.

I never heard of such outrageous naivete. If that were true, then all we need do is disband our Army and Navy and Air Force and immediately send aid to Moscow and Peking.

While I consider myself as humanitarian as the next person, I believe that our overarching duty today is to get our own house into order. For longer than a generation, the United States of America has carried the burdens of the world. It has disbursed money and manpower to the far corners of the world. It has left no stone unturned to help better the lives of those in other lands who are less fortunate. From 1946 to 1972, the United States disbursed over $140 billion to foreign nations. And when we add in the interest paid on what we have borrowed, the total bill soars about $215 billion. Our aid rebuilt Europe after the Second World War. Germany was put on its feet, and two oceans away, Japan was also rebuilt.

It was obvious to anyone with eyes to see that we could not continue in those ways forever. One day the bill would come due. And we are living today in a situation where the bill has finally been presented. Our balance of trade—for generations a surplus item in our favor—has gone into the red. The balance-of-payments situation is even more ridiculous. In this condition, the best service the United States can render the cause of freedom and security is to put its affairs into order. Without a sound and stable home base, our commitments abroad mean nothing, and our claims to world leadership amount to so much bluster. In the cause of freedom, America must act with more realism and commonsense. And in the cause of freedom, our allies—those whom we have rebuilt—must do more to man the walls against the threats of aggression and subversion.

Just as we are called upon to observe a new realism abroad, so are we summoned to a new responsibility here at home. In order to restore the confidence and stability of the American economy, we must cut down our expenditures. The budget must be put back in balance and it must be soon. There are many new programs that you and I can think of which would solve this problem or that problem, but if we undertake them all we will end by solving nothing—we will end instead by creating chaos and complete economic dislocation.

The administration must come clean with the people. If it asks us to deny the crippled at home, as it did this week, then it must not ask us to turn around and mend the crippled of the enemy.

If it asks us to hold back on local and municipal improvements here at home, then it must not ask that we funnel millions of dollars into villages 10,000 miles away.

If it asks us to abolish programs for rural America, then it must not create some gigantic new Marshall plan for rural North Vietnam.

Our duty to ourselves and to those who come after is clear and compelling. It is to keep America so strong, so stable, so secure, that we can provide the best for our own citizens and at the same time hold forth the example of freedom for others to see and hopefully to follow. We can only meet this summons by living within our means, and by putting American problems at the top of our agenda and North Vietnamese problems at the bottom.

We also have a duty, I submit, to those who fell in the battle. It is not to squander in the peace that which we fought for in the battle. As for me, Mr. President, I was not elected to represent the people of South Carolina by giving money to the North Vietnamese while American pilots are even now being called on to hit the North Vietnamese fighting in Cambodia. I say no aid today. No aid tomorrow.

Mr. President, we are in the short rows of the field and the ox is in the ditch. We must all do our part. The Senate has already this week voted to put a ceiling on spending. We have stated our determination to reduce the $12.7 billion deficit envisioned in the administration's budget. We have set a limit of $268 billion. We will have to pare back, cut down, and deny programs. I will vote for those denials. And we will have to cut back in the foreign assistance field. This means less aid for our friends, not to mention where aiding the enemy should stand on our list of priorities.

We have cut back now by action of the Congress, with pressure from the administration, on those who want rehabilitation. If we are going to deny the cripples of our own land, if we propose to cut $160 million from the veterans' program, if we are going to deny our friends in the foreign fields any assistance, where does the enemy come in the order of priorities? The answer is clear—he comes at the very bottom.

The Congress ought to make no mistake about it. It ought to make it emphatically clear to all concerned that we are not toying around with the dollar. We are going to balance the budget. We are going to take care first of our domestic needs and not of those of North Vietnam whose soldiers continue fighting at this moment while we debate the matter. If they want peace, they can have it. I am with the President and with the majority leader in looking to the future of America and the future of the Far East. However, it is for the North Vietnamese to decide. After they signed the agreement, they acted belligerently and conducted themselves as enemies. They continue to do so. In fact, the violations become more frequent, rather than less. Under these circumstances—circumstances created not by the United States but by the North Vietnamese who continue their aggression—it would be morally and diplomatically unconscionable to hold out the promise of aid to North Vietnam. I thank my colleagues for their attention.

Mr. ROBERT C. BYRD. Mr. President, I have discussed this matter carefully with, I think, about all Senators on the floor, certainly those in charge of the amendment and those who are principally opposed to it, and those others who have amendments to it, and I would assume that the distinguished Senator from Texas would speak for the leadership on that side of the aisle. I ask unanimous consent that a vote occur on the amendment by Mr. HARRY F. BYRD, JR., at 2:30 p.m. today, with the understanding that the time for debate on that amendment between this hour and the hour of 2:30 p.m. would be under the control of the distinguished mover of the amendment, the senior Senator from Virginia (Mr. HARRY F. BYRD, JR.), and the distinguished Senator from Texas (Mr. TOWER), with the further provision that 30 minutes out of that time be under the control of the Senator from South Dakota (Mr. MCGOVERN), if he would allow me to say, rather, 25 minutes under his control and 5 minutes under the control of the Senator from Texas (Mr. TOWER).

Mr. JAVITS. Mr. President, reserving the right to object, this, of course, does not cover any other amendments than the McGovern amendment. In the time parameter, does the Senator not think that we would be better off having a unanimous-consent agreement which allows a short period for debate on any amendment?

I have no objection to voting at 2:30. However, I do not believe in the idea of cutting off Senators from offering amendments.

Mr. TOWER. Mr. President, if the Senator will yield, I believe that under the existing consent agreement any further amendment to the amendment would be in order and would be under the 1-hour time limitation.

Mr. ROBERT C. BYRD. Mr. President, further amendments to the amendment of the Senator from Virginia would be in order provided they were germane. However, only 30 minutes would be allowed on such amendments. And when the hour of 2:30 p.m. arrives under the present request, any amendment germane to the Byrd amendment could come in.

Mr. JAVITS. Mr. President, I have a suggestion to make. After the hour of 2:30 has arrived, if any Senators have amendments, I think there should be 10 minutes to the amendment, 5 minutes to the side.

Mr. ROBERT C. BYRD. That would be agreeable.

Mr. JAVITS. I would like to have 5 minutes yielded to me by the Senator from Virginia.

Mr. ROBERT C. BYRD. Mr. President, I modify my unanimous-consent request in accordance with the suggestion of the Senator from New York (Mr. JAVITS).

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

Mr. HARRY F. BYRD, JR. Mr. President, I thank the Senator from South Carolina. I yield to the Senator from West Virginia such time as he might need.

Mr. ROBERT C. BYRD. Mr. President, I thank the Senator for yielding. I suggest that he proceed, if he wishes, with his comments with respect to the comments of the Senator from South Carolina.

Mr. TOWER. Mr. President, will the Senator yield to me on my own time?

Mr. HARRY F. BYRD, JR. Mr. President, I do not like to yield to any one before yielding to the Senator from West Virginia because I promised him that I would yield to him before.

Mr. ROBERT C. BYRD. Mr. President, I wanted the Senator from Virginia to have an opportunity first to comment on the remarks of the Senator from South Carolina if he wished to do so.

Mr. HARRY F. BYRD, JR. Mr. President, if the Senator from West Virginia would proceed, I will ask unanimous consent later that my comments be placed elsewhere in the RECORD.

Mr. ROBERT C. BYRD. Mr. President, I want to congratulate the Senator from Virginia (Mr. HARRY F. BYRD, JR.) on his original amendment and I want to congratulate him further on modifying it as he has done today.

The amendment now reads as follows:

No funds made available by the Congress to any department or agency of the Government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

Mr. President, reference has been made today to moneys that may be presently unused in foreign assistance programs and which might otherwise be diverted to a program of foreign aid for North Vietnam.

The Senator's amendment, as I understand it, would prevent any such diversion of moneys from other foreign aid programs to any program for aid to North Vietnam.

I also call attention to the fact, Mr. President, that in the budget there is a figure of something like $3.9 billion for increases in military pay which have been enacted by Congress. I am further advised that the administration will attempt to absorb as much of that military pay increase as possible, notwithstanding the fact that there is almost $4 billion in the budget for such pay.

Mr. President, conceivably—I am not sure of my legal ground in saying this—I think it might be possible that such moneys for military pay increases as were absorbed by the administration, could then be diverted from the $4 billion to some other purpose. Whether under the law those moneys could be diverted to a foreign aid program for North Vietnam, I am not at the moment prepared to say.

In any event, Mr. President, I think it is quite possible—and even quite probable—that at least $1 billion or more of the $3.7 billion or $3.9 billion budgeted—whatever the figure is—will be absorbed and will not be needed for military pay increases.

If Congress, therefore, goes ahead to appropriate that $3.9 billion that billion dollars in savings of moneys—that were otherwise included in the $269 billion budget—could be utilized for something else such as foreign aid to Vietnam and the administration could still stay within that $269 billion ceiling.

But the amendment that is offered by the distinguished Senator from Virginia would, beyond any peradventure of a doubt, prevent any such diversion, or any other diversion.

So I congratulate the Senator. I think that his amendment is necessary. The distinguished Senator from Alaska a moment ago said something about sending a message; as far as I am concerned I am perfectly willing, and I think we ought, to send a message to the administration that the Senate is not now prepared to go on record in support of aid to North Vietnam.

The Senator's amendment leaves it open for retraction by Congress if future circumstances should merit. Congress would, of course, make a judgment at a future time; but even without his amendment Congress could at a later date authorize expenditures for aid to North Vietnam.

Mr. President, I supported the President regarding his Vietnamization program. I supported him in his program of gradual and orderly removal of American forces from Vietnam. I commend the President; I think he is entitled to a lot of credit.

But in supporting the Vietnamization program in the South—which by all accounts, we have been told by representatives of the administration, was successful—I was not under the impression that I would later be called upon to vote for a Vietnamization program in the North.

I do not intend to vote for any such aid to North Vietnam. If it is a matter of providing food, or medicine, or things of that kind, yes. But I am not prepared to vote for a foreign aid program to North Vietnam, and I think we ought to send a signal to the administration that is clear and unmistakable, and I am willing to cast my vote today to send that signal.

I commend the distinguished majority leader on his statement of position today. He has also raised a question which I am going to refer to at this time, when he indicated that in his understanding there was to be a cease-fire that was to be reasonably operative—I do not want to misstate him, but I understood it was to be operative before we are under a commitment of any kind to supply aid.

In other words, part of the commitment on all sides was that there would be a cease-fire that was reasonably operative.

I do not think that the cease-fire has really become operative to date. Article 21 makes reference to "postwar construction" aid by our country. But the war is not over yet. We are not in that "postwar" period. The war is still going on. Thousands of violations of the cease-fire have occurred on the part of both the North Vietnamese and the South Vietnamese. So there is no "postwar" period as yet. Therefore, as I view it, by no stretch of the imagination can there be "postwar construction" under present circumstances, or contributions on our part to any "postwar construction" in North Vietnam, because the war is still going on. The North Vietnamese are still moving troops into South Vietnam.

Article 21 contains the so-called commitment on the part of our country; yet, article 20, which precedes article 21, as I recall provides that all foreign powers will desist from further military operations, and that they will remove all troops from Laos and Cambodia and will refrain from the reintroduction of troops into Laos and Cambodia.

In my judgment, it is unthinkable, even, to be discussing aid to North Vietnam in terms of any so-called commitments set forth in article 21—which refers to postwar construction—when article 20 of the peace agreement has not yet been lived up to. The North Vietnamese are still in Cambodia and Laos and have not been withdrawn. It remains to be seen whether the North Vietnamese are ever going to pull their people out of Laos and Cambodia.

Even if I were otherwise inclined to vote for aid to North Vietnam, I could not possibly do so until such time as the North Vietnamese have lived up to this commitment in article 20 of the Paris agreement.

The administration, of course, has not made a firm proposal; but it would seem to me, from all the talk we have heard, that we can expect one. I am glad that the Senate is going to take the position today, as I believe it will, of sending an unmistakably clear signal to the administration that the Senate is opposed to such spending.

I saw Mr. Butz on television earlier this week when he was saying to his audience, "Go up to the Hill and talk to those free spenders." I am sorry, as I stated yesterday, that I ever voted to confirm the nomination of Mr. Butz. Parenthetically, I may say, I have a bill in the Committee on Government Operations which will require the reconfirmation of Cabinet officers every 4 years. I would have hoped to offer that amendment today, had I not locked myself out on the germaneness provision. I think it is about time that we have men such as Mr. Butz come back before Congress every 4 years to render an accounting of their stewardship. It might take some of the arrogance out of them.

As "free spenders," Congress has not appropriated funds for an aid program for North Vietnam. This is the administration's suggestion. Even though it has not been affirmed as a proposal yet, we are given to understand that there will be such a program, notwithstanding the ill treatment of American prisoners of war that we have been hearing about.

So I hope the American people will get this question into proper focus. There is enough blame to go around when there is talk about "free spenders." It was not the U.S. Senate that proposed, for example, the general revenue-sharing program. I did not vote for general revenue sharing. The majority leader did not vote for general revenue sharing. The distinguished senior Senator from Virginia did not vote for general revenue sharing. That program, in my judgment, has proved, in many instances, to be a giveaway program of $30 billion. The American taxpayers are saddled down, at a cost of $6 billion a year for 5 years, with a program about which many of the mayors and many of the communities throughout the country, who initially welcomed the program with open arms at first, are having second thoughts. It is an example of a costly program that I would venture to say is going to prove to be wasteful. That program was not initiated on the Hill by the so-called spenders; it was initiated downtown, it was promoted downtown, and it was presented to Congress from downtown. So I refer to it only in the context of the overall charge that Congress is doing all the "free spending." The administration proposed that program. So far as I am concerned, any program of aid to North Vietnam will also be proposed by the administration—not by Congress. Now I do not know how the administration will explain to the housewives of this country, and I do not know how the administration will explain to the Social Security annuitants, and to the cripples, how the administration consistently opposes humanitarian programs that have been enacted by Congress on the one hand and, on the other hand, proposes to aid a country which has not surrendered, a country whose Communist dictatorship has not been deposed, a country whose military machine has not been destroyed, a country that mistreated American POW's, and a country that to this hour continues to flout the Paris agreement concerning which we all commended the administration.

So, Mr. President, there is enough blame to go around on this business of spending. I want to further pursue that briefly. The "stick in the closet" did not work. I say this with the highest respect for the President, I respect him personally and I respect the Office of the President—but the administration never reminded the housewives of this country the other night during the televised speech in connection with meat prices and growing inflation, that it was the administration that lifted the phase II controls prematurely—controls which the President did not want, controls which the President opposed, but controls which were enacted by Congress over the President's opposition, and controls which the administration delayed entirely too long before finally imposing them in August 1971.

Congress may accept its share of blame for some of the programs which we have provided. I am not saying that some of them have not been unwise. In some of them—from the standpoint of hindsight—have been unwise and some of them have been inefficient and wasteful. But a good many of those same programs have been proposed by Presidents of the United States.

Charity begins at home. I have been against foreign aid programs now for 8 or 10 years. I formerly supported them when I was in the House of Representatives.

A long time ago, however, I came to the conclusion that the American taxpayers were suffering too much under an inordinate burden, and I have been voting against foreign aid programs, therefore, for many years, and I intend to vote against foreign aid this year.

Incidentally, the conventional foreign aid program, which has been supported

by this administration and by its predecessors, has had rough going in Congress for the past 2 or 3 years. I am sure that the distinguished Senator from Virginia (Mr. HARRY F. BYRD, JR.) will recall that the foreign aid program in recent years has had to operate under a continuing resolution. The Senate has been unwilling to approve administration budgets for foreign aid. So, the pot can call the kettle black, but the administration, in blaming Congress for inflation, does not do so with clean hands.

I close by commending the Senator from Virginia once again. I support his amendment, and I hope that it will be approved unanimously, although I do not quite see that happening, but I think it will and ought to be accepted overwhelmingly.

Not only will the administration get the message, but also the housewives of America will say, "Hurrah for those so-called free spenders on the Hill. They are not for giving my hard-earned dollars to the Communist dictatorship in North Vietnam."

I thank the Senator from Virginia for yielding to me. He has performed a great service to his country today.

Mr. HARRY F. BYRD, JR. Mr. President, I appreciate the strong support of my close friend from West Virginia (Mr. ROBERT C. BYRD), and I thoroughly agree with him that it is desirable the Senate today send out a signal. I think it is desirable today that the Senate make clear that it does not want to establish a new program of foreign aid to North Vietnam. Before any such program can be established, it must be authorized by Congress.

I want to make my position clear that I am opposed to the program. I think that this amendment, if agreed to, will go a long way toward eliminating any such foreign aid program.

Now, Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER (Mr. NUNN). The Senator from Virginia will state it.

Mr. HARRY F. BYRD, JR. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER. Fourteen minutes remain.

Mr. HARRY F. BYRD, JR. I thank the Chair. I reserve the remainder of my time.

Mr. McGOVERN. Mr. President, will the Senator from Virginia yield?

Mr. HARRY F. BYRD, JR. I yield the floor.

Mr. TOWER. Mr. President, would the Senator from South Dakota withhold just a moment, to let me get in a little legislative history?

Mr. McGOVERN. I yield.

Mr. TOWER. I should like to ask the distinguished Senator from Virginia, on my time: The Senator from Alaska raised a valid point, and one of concern a moment ago, when the question was raised whether this would bar funds which could conceivably be paid to the North Vietnamese, under the amendment, for supervision in the search for the graves of American dead or prisoners who have died.

Mr. HARRY F. BYRD, JR. That would be of benefit to the United States. It would not be done for North Vietnam.

Mr. TOWER. Right. Would it come within the intention or the purview of the amendment?

Mr. HARRY F. BYRD, JR. It would not be for the benefit of North Vietnam but for the benefit of the U.S. citizens whose lives were lost in Indochina.

Mr. TOWER. Right. I thank the Senator from Virginia for making that point clear.

Mr. President, I believe the Senator from South Dakota wants to introduce his amendment and I, therefore, withhold until he has had the opportunity to do that. So, at this time, I yield the floor.

Mr. McGOVERN. Mr. President, I have a substitute amendment at the desk and I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

In lieu of the language proposed to be inserted by the Senator from Virginia, insert the following:

"Unless there is prior, specific authorization by the Congress, no funds made available by the Congress to any agency of government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, nor shall such funds be obligated or expended to finance military or paramilitary operations by personnel of the United States in or over Cambodia, Laos, North Vietnam or South Vietnam."

Mr. McGOVERN. This amendment would make both aid to North Vietnam and any further U.S. military involvement in or over Cambodia or Laos or North or South Vietnam dependent upon explicit congressional authorization. It does not prejudge either the issue of assistance or the issue of American military operations in Indochina.

Mr. President, I think that we should face the fact the reason we are debating this issue at all this afternoon, the issue of aid to North Vietnam, is due to the ill-advised American military intervention that never had the congressional control or congressional scrutiny that a serious matter of that kind should have had.

As a matter of fact, the distinguished Senator from Idaho (Mr. CHURCH) put it very well here a while ago, when he said that the central issue we are really talking about here today is whether the United States will become involved or reinvolved in Indochina without the authorization of the Congress. Certainly that issue extends beyond simply the question of assistance to North Vietnam.

Mr. President, in recent weeks, in spite of the talk about peace with honor, American bombers—B–52's and FB–111's—have been heavily involved in bombing attacks in Cambodia. Whether or not that is a wise policy—and I think it is a most unwise policy—certainly it does not have the slightest authority of constitutional justification.

The Gulf of Tonkin resolution was repealed in January of 1971. So those who have argued over the years that the 1964 resolution was the congressional authority under which American military operations were conducted can no longer cite it as authorization for these incredible bombing raids now going on over Cambodia; nor can the Southeast Asia Treaty Organization be used as authority, because Cambodia has specifically repudiated the SEATO Treaty and has said that the terms of that treaty do not apply to them.

The administration cannot rely on the rationalization they used in the 1970 invasion of Cambodia, that the action was necessary to protect American forces on the ground in South Vietnam, because U.S. forces have been withdrawn from Vietnam.

So on all three counts, Mr. President, there are no actions by Congress that would provide authority for the bombing operations now going on over Cambodia.

The administration, according to press reports, has attempted to come up with a legal memorandum defining the source of authority for these actions, relying on another hazy extension of the President's power as Commander in Chief. According to these press reports, even the administration recognizes that the argument they have developed thus far is so shallow that they have felt that to release it publicly would actually reveal the weakness of their case rather than strengthen it.

Mr. President, if Congress permits continued bombing in Cambodia under these circumstances, it will amount to abandonment of the fight to restore congressional powers over war and peace. Any assertion of those powers can only be enforced by Congress; and any President looking back on a Congress that fails to act in the current situation, given what is going on today in these aerial attacks on Cambodia, would certainly never fear action to enforce congressional prerogatives in a future case of this kind.

Beyond this, the argument certainly may be made that the Senate should not consider proposals of this kind in connection with the bill now before us, S. 929, dealing with the par value of gold. But the agreement to consider the amendment of the Senator from Virginia literally demands that the issue be raised at this point. The request for aid to North Vietnam comes as a direct consequence of the intensive bombing of that country.

In the past few days, we have been sending as many as 60 heavy bombers over Cambodia, inflicting incredible damage on that little country. It is safe to assume that we will some day be debating the question of reconstructing and repairing the damage in Cambodia, just as we are now here this afternoon arguing about whether or not we ought to pay for part of the cost of repairing the bombing destruction in North Vietnam.

We cannot take back the bombs that fell on North Vietnam. There is no way to remove that damage. But certainly we can save some of the cost of rebuilding Cambodia, if we take action today to halt any further aerial attacks over that country without the express approval of Congress.

The PRESIDING OFFICER (Mr. NUNN). The Chair would like to make this observation. Under the uanimous-consent agreement, the Senator from South Dakota was granted 25 minutes

to speak, and no permission was granted for his amendment, so the amendment is not in order until all time on the amendment of the Senator from Virginia has expired.

Mr. McGOVERN I ask the Senator from Virginia if he will yield time to me.

The PRESIDING OFFICER. The Senator has a right to time. The Senator has 25 minutes. The Chair just wanted to make the observation about when the amendment of the Senator from South Dakota would be in order.

Mr. McGOVERN. Would the Chair repeat that? I am not sure that I get the point.

The PRESIDING OFFICER. The Senator from South Dakota was granted 25 minutes to speak, but no permission was granted for the amendment to be in order. Therefore, the amendment of the Senator from South Dakota is not in order until all the time of the Senator from Virginia has expired.

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

Mr. McGOVERN. I yield.

Mr. ROBERT C. BYRD. I hope the Chair is not implying by what the Chair has just said that the amendment by Mr. McGOVERN would even be in order at that time.

The PRESIDING OFFICER. The Chair is making no ruling on that.

Mr. ROBERT C. BYRD. But the Chair said it would not be in order "until" then.

The PRESIDING OFFICER. The Chair is making no ruling as to germaneness at this time.

Mr. TOWER. Mr. President, will the Senator yield, on my time?

Mr. ROBERT C. BYRD. Would the Chair mind saying that the amendment would not be received until then?

The PRESIDING OFFICER. The Chair will say that the amendment will not be received until then.

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

Mr. TOWER. Was it not the intention of the Senator from West Virginia to allow the offering of the amendment by the Senator from South Dakota to be in order at any time during that time period?

Mr. ROBERT C. BYRD. No; it was not. My request was that the distinguished Senator from South Dakota be allowed to control 25 minutes of the time within the total time frame until 2:30 p.m. Until 2:30, or until such time as all time had expired, another amendment could not come in. Once that time had expired, the Senator could, if he were so disposed, send his amendment to the desk, and it would be read; and if the hour of 2:30 were at hand, he would be allowed 10 minutes on that amendment. He could then have it read, but a point of order will then be made against the amendment—not that I am opposed to the amendment in substance.

Mr. McGOVERN. May I propound a question to the Senator from West Virginia?

I had thought that his unanimous-consent request provided that the Senator from South Dakota would have 25 minutes to discuss his amendment.

Mr. ROBERT C. BYRD. Yes. That is true.

The PRESIDING OFFICER. The Senator has that time.

Mr. ROBERT C. BYRD. The Senator may use that time to discuss his amendment, which he will send to the desk later.

Mr. McGOVERN. The Chair has already asked that the amendment be read, and it has been read.

Mr. ROBERT C. BYRD. That is all right; I do not mind that. But the Chair was under a misunderstanding as to what my request really meant. The Chair had the impression that my request opened the door for the Senator's nongermane amendment to come in the door, but my request was not so intended.

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

Mr. ROBERT C. BYRD. I yield.

Mr. TOWER. Would it not probably make matters more orderly if consent were given to the Senator from South Dakota to offer his amendment at this time and to consider it and dispose of it, and then proceed?

My guess is that the Senator from Virginia does not want to wait until all his time has expired.

Mr. ROBERT C. BYRD. That is all right with me. The request would have to be modified. I would be glad to make the request that the Senator be allowed to send his amendment to the desk, that the clerk read it—which has already occurred—and the Senator could speak on it, but with the understanding that such consent does not, ipso facto, render the amendment germane.

Mr. McGOVERN. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. McGOVERN. Is the amendment of the Senator from South Dakota, under the previous agreement, now germane, in view of the fact that the amendment has been named in the unanimous-consent request?

The PRESIDING OFFICER. An amendment which has been specifically named in the unanimous-consent agreement is not subject to a point of order on germaneness. However, the provision obtained by the Senator from West Virginia was not for the amendment but was for time, and time only.

Mr. McGOVERN. The interpretation of the Chair, then, is that the unanimous-consent agreement, as it presently stands, does not insure the germaneness of the amendment I have offered as a substitute?

The PRESIDING OFFICER. The Senator's interpretation is correct.

Mr. McGOVERN. Under those circumstances I wish the Senator from West Virginia would again repeat the modification of his unanimous-consent request.

Mr. ROBERT C. BYRD. Very well.

The request that has been agreed to by the Senate stands. However, I would like to modify that request in this aspect only: that the distinguished Senator from South Dakota (Mr. McGOVERN) may now send an amendment to the desk, and that that amendment may be discussed by him in accordance with the time that was to be under his control, pursuant to the previous request, but with the understanding that that action will not in itself render the amendment germane or make it in order under the previous agreement.

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

Mr. McGOVERN. Mr. President, since the amendment already has been stated, I ask unanimous consent that we may dispense with further reading of the amendment and move to its consideration.

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

Mr. McGOVERN. Mr. President, I recognize that under the unanimous-consent agreement reached a couple of days ago it is very unlikely that this substitute amendment could be sustained against a point of order, but it is certainly in order at a time when we are talking about whether we ought to repair our bombing of North Vietnam, for us to consider whether Congress should not be moving to prevent additional aerial bombardment in Cambodia and other military operations which some day down the road we know will result in the Senate voting on the question of reconstruction aid to those countries.

The request for aid to North Vietnam comes as a direct consequence of the intensive bombing of that country, and every Senator knows that; it is the repair of the aerial bombardment of North Vietnam that has brought this matter before the Senate today. I regret the fact that we are in a parliamentary situation where we cannot deal with the larger situation of how we prevent this unwise and incredible bombardment that is now going on over Cambodia without congressional authorization at all.

I insist there is no constitutional authority under which we are bombing this little country of Cambodia. It is not to protect our troops in South Vietnam. There are no troops there. It is not under the Gulf of Tonkin resolution. That has been repealed. It is not under the SEATO Treaty. That treaty has been rejected by the Government of Cambodia, by both Prince Sihanouk and Lon Nol, the present ruler of Cambodia. But in the past few days we have been sending our heavy bombers over Cambodia, inflicting the same kind of damage there we are now debating with respect to North Vietnam as to whether we ought to help repair the damage. Is that not the only reason why the issue of American military operations in Indochina are of immediate concern?

The joint communique issued by President Nixon and President Thieu on Tuesday, the day before yesterday, declared that plans for "rigorous reactions" of what they see as violation of the Paris agreement. Nobody knows what "rigorous reactions" means. I assume it means it is very possible that our Government at any moment could undertake renewed military operations against North Vietnam, this, again, apparently without any consultation or approval by the Congress of the United States.

The question in my mind is whether we

have learned anything at all from this tragic experience over the last 15 years in Indochina. Are we going to sit in this Chamber day after day reading reports about American aerial bombardment of Cambodia, reading reports from the President of South Vietnam and our own President that "rigorous reactions" may be taken by our Government at any time against North Vietnam, and then do nothing at all to provide that actions of that kind that could involve us in major military operations again must first be approved by the Congress of the United States?

It seems to me if there is any lesson at all we must learn from this tragedy in Indochina, it is that never again should American forces be committed to conflicts of that kind without full debate and authorization by Congress. How can any reasonable person read the Constitution in any other way than that?

We have the power to authorize American military operations abroad or to terminate those military operations. If we surrender that power and stand idly by while American bombers are going out day after day over Cambodia, I do not know how we can face the American people with a clear conscience.

I remind the Senate again that we are here this afternoon on this issue of aid to North Vietnam, because of precisely that kind of aerial operation over North Vietnam. But at least in that case the administration could point to the Gulf of Tonkin resolution or argue that the lives of our troops were in jeopardy in Vietnam, or that we were carrying out the provisions of the SEATO agreement. None of those arguments has any reference to the situation that now confronts us in Cambodia or other parts of Indochina.

That policy could easily involve the United States in a full-scale war once again, when more billions of dollars would be spent and more American pilots sent back to prisons in Hanoi and elsewhere.

We should be reminded that 2 weeks of heavy bombardment before Christmas last year cost the American taxpayers $500 million to say nothing of the untold suffering and damage to the people of North Vietnam. During that same 2-week period 93 American airmen were captured and taken prisoner, more than in the previous 3 years combined. We are celebrating the return of the prisoners. We need to be reminded that 93 of them were taken in 2 weeks of bombing that took place just prior to Christmas last year. Now, we have indications that our flyers are jeopardized again in operations over Cambodia and the possibility of renewed military operations over North Vietnam.

I think it is safe to assume—indeed, the administration so stated—that the defenses have been rebuilt in North Vietnam and are more sophisticated. More surface-to-air missiles have been put in place, so renewed bombing would place our pilots and crews in a more deadly situation than confronted them before. Should not Congress be consulted before we slip back into that same old trap?

What is wrong with permitting the Congress to determine, first of all, whether the so-called peace agreement has been violated; second, whether the United States should assume an obligation to enforce it; and, third, whether it is in the interest of this country, now that the prisoners and our forces have been returned, to continue a military involvement in Vietnam and in Indochina that most of us see as a tragic mistake from the beginning?

I hope very much, although questions have been raised of a parliamentary nature about the germaneness of this substitute amendment, that the Senate will look at the larger question of whether it is in the interest of our country to permit these continued military operations to go on, especially the bombing of Cambodia, without the Congress examining that very carefully and deciding, for good or ill, whether the bombing should proceed.

There were three articles dealing with this subject which appeared in yesterday's issue of the Washington Post, one under the byline of Mr. Murrey Marder, one under the byline of Mr. Dennis Neeld, and another one authored by Mr. Michael Getler. I ask unanimous consent that these three articles, describing the extent of our aerial bombardment of Cambodia and the unbelievably thin constitutional defense of that bombardment, be printed at this point in the RECORD.

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

[From the Washington Post, Apr. 4, 1973]

BOMBING RATIONALE IS SOUGHT—CEASE-FIRE—AND BOMBING

(By Murrey Marder)

Only a week after the last American troops left South Vietnam, the barricades are rising each day in Congress to challenge President Nixon's authority to continue bombing in Cambodia.

The contest is still in a positioning stage on both sides, hearings in the Senate and House illustrated yesterday. A war-weary Congress, often outmaneuvered by the executive branch in the past over Indochina war powers, is reluctant to launch a new frontal challenge over Cambodia. The national mood is still quiescent about the remnants of war in Indochina that refuse to go away.

But all the prospects are that a confrontation over presidential war powers in Cambodia is coming, and each side is girding for it.

Administration officials privately concede that the hopes they held when the Vietnam cease-fire was signed Jan. 27 for also dissolving the conflict in Laos, plus the more complex tangle in Cambodia, have crumbled considerably since January.

The Nixon administration is far more on the defensive over the use of presidential powers in Cambodia than the United States ever has been for justifying the use of American power in Indochina.

All the older justifications have been stripped away over the years.

The Gulf of Tonkin Resolution of 1964, on which the Johnson administration relied, was repealed Jan. 12, 1971, with the Nixon administration stating that it was not depending on the resolution anyway.

The Southeast Asia Treaty, also invoked by President Johnson, does not apply to Cambodia. The government of Premier Lon Nol disclaimed inclusion in SEATO when it came to power in March, 1970, as ousted Prince Norodom Sihanouk similarly excluded Cambodia from coverage.

In addition, the Vietnam cease-fire accord states that "North and South Vietnam shall not join any military alliance or military bloc," and it also re-pledges respect for "the neutrality of Laos and Cambodia." Thus there are no alliance ties that can apply to Indochina to justify employing U.S. arms, if existing agreements and declarations are honored.

Through the Nixon administration years, the declared constitutional justification for the use of armed forces in Indochina was to protect the withdrawal of U.S. troops. Before and since the troops were all withdrawn from South Vietnam, legal experts searched the statute books seeking rationalizations for continued American bombing of Communist troops in Cambodia.

"There are no easy answers," said one administration source yesterday, echoing a rueful refrain. Several draft rationalizations have been produced in the State Department's legal office, and the most recent version is now reported awaiting White House action—with concern that it might only widen the dispute.

What have been produced are variations on two generalized themes: the President's constitutional authority as Commander-in-Chief to pursue actions in which he has been engaged, and Article 20 of the Vietnam cease-fire accords. This article calls for "an end to all military activities in Cambodia and Laos," plus a withdrawal from those countries of all troops, military advisers, personnel and war material.

Laos, on paper, has a cease-fire, signed Feb. 21 but still awaiting any enforcement provisions.

Cambodia still lacks not only the glimmer of a ceasefire agreement, but even identifiable participants to begin negotiating one. A unilateral cease-fire declared by the Lon Nol government was ignored by the Communists, and while American officials deplore the continued fighting by North Vietnamese troops there, the bulk of the battle actually is conducted by indigenous Red Khmer forces.

This "kind of a lingering corner of the war" in Cambodia, as it has been described by Defense Secretary Elliot L. Richardson, is plaguing U.S. strategists more than they will admit in public. The best evidence is the continued daily bombing by American B–52s. This is what has aroused the congressional challenges to President Nixon's authority to pursue that war, originally justified solely in defense of U.S. troop withdrawals from South Vietnam.

Richardson, before a House subcommittee yesterday, elaborated on the alternative argument that the Nixon administration has sought to develop. It turns on the failure on the Communist side to live up to all the terms of the Vietnam cease-fire, with its cross-references, through Article 20, to Cambodia and Laos.

"If the President had the authority to pursue the cease-fire agreements," said Richardson, "he has the authority to secure adherence with those agreements." Therefore, Richardson contended, "He needs no new grant of authority to continue doing the kinds of things he was doing before the peace agreement was signed," when it is "not being adhered to."

Critics on Capitol Hill, who include increasing numbers of Democrats and Republicans, scoff at this interpretation. "The issue," said Sen. Thomas F. Eagleton (D–Mo.), who joined the outcry yesterday, "is whether the President can legally continue his action without the authorization of Congress. I must answer that question with an emphatic 'no.'"

What makes the Cambodian dispute especially sensitive is that in the intense debate that followed the American thrust into Cambodia in 1970 to attack Communist sanc-

tuaries there, unusual legislative restrictions were placed on U.S. operations there to prevent "another Vietnam."

Not only were American combat troops and military advisers barred from Cambodia, but strict limits were placed on the numbers of Americans who could be in Cambodia at any time—200.

Arthur W. Hummel Jr., deputy assistant secretary of state for East Asian and Pacific affairs, told the Senate Foreign Relations Committee yesterday that it has been necessary to "juggle" Americans in and out of Cambodia to stay within that force level. To do so, said Hummel, sometimes U.S. personnel based in Cambodia have to leave for a few days when "visitors" come in.

U.S. "failure to give air support to the forces of Cambodia," said Hummel, in defense of the administration's new rationale, "could have a deleterious effect on the achievement of an actual cease-fire in Cambodia."

"I strongly disagree with the administration's justification," countered Sen. Claiborne Pell (D.-R.I.), "and see it providing further grounds for entanglement."

What is at issue, Sen. Jacob K. Javits (R.-N.Y.) has said, is not whether U.S. interests are served by bombing in Cambodia, but whether "the President alone" can make such a determination."

The administration is now seeking to invoke a presidential right to enforce an international agreement that was never submitted to Congress for ratification.

Secretary of State William P. Rogers told the Senate Foreign Relations Committee Feb. 21 that there was little "time" to submit the Jan. 27 Vietnam cease-fire accord for ratification, "I do not detect any opposition" to it, and most importantly, it contained amibiguous phrases and clauses and provisions. . . ." To try to spell them out, said Rogers, would have killed any accord.

U.S. BOMBERS HIT CAMBODIA HEAVILY

(By Dennis Neeld)

SAIGON, April 3.—American B–52s and F–111 swing-wing fighter bombers pounded insurgent forces Tuesday in some of the heaviest air attacks of the Cambodian war, U.S. sources reported.

Approximately 60 B–52s in Southeast Asia participated in the massive bombings, apparently designed to beat Cambodia's Khmer Rouge rebels and their North Vietnamese allies into accepting a peace settlement, the official American sources added.

The wide-ranging aerial assault was reported to extend beyond tactical support for Cambodian government ground forces and suggested a new turn in the three-year war.

The bombing got under way Monday night and continued until shortly after dawn Tuesday, the sources said. The Pentagon spokesman said in Washington, however, that there has been "no dramatic change in the last few days" in the bombing level.

"We have had a major effort for some time," he added, without disclosing the number of attacks.

Hanoi Radio denounced the attacks as a "criminal act against the innocent Cambodian people" and warned the United States of "dangerous consequences."

The broadcast claimed "America's aerial blitz is being extended to densely populated areas of Cambodia, especially around the capital of Phnom Penh."

Senior U.S. officials in Cambodia expressed belief the Communists think they are on the brink of victory, and consequently see no point in peace negotiations.

"The Communists in Cambodia think time is on their side and that it will bring them complete victory," said one senior U.S. official in Phnom Penh. "Our bombing aims to persuade them that they could be wrong."

The sources compared the massive raids in Cambodia to the bombardment of Hanoi last December. That intense bombing was designed to force the North Vietnamese into accepting a peace agreement in Vietnam.

The United States has about 200 B-52 bombers on Guam and in Thailand. Each of the eight-engine aircraft carries up to 30 tons of bombs.

[In Washington, military sources said the Air Force has never used more than 60 B-52s against Cambodia any day since the stepped-up air campaign began in mid-March. As for tactical fighter-bombers, military sources said the number of their sorties in Cambodia has gone down in recent days, averaging fewer than 140 since last Friday.]

U.S. air attacks have concentrated on Communist forces edging closer to the capital of Phnom Penh and isolating it from the rest of the country by cuting off highways leading into it. Military sources reported some of the B152s and fighters bombers in action Tuesday also supported a rare Cambodian government offensive in the Kirirom Plateau 60 miles southwest of Phnom Penh.

A day after the Vietnam cease-fire Jan. 28, President Lon Nol declared his forces would cease offensive action—something for which they had not made a name for themselves anyway—to permit the withdrawal of North Vietnamese and Vietcong troops from the country. The insurgents replied with their heaviest offensive of the war. It was blunted only by U.S. air power.

RICHARDSON TESTIFIES ON CEASE-FIRE

(By Michael Getler)

Defense Secretary Elliot L. Richardson said yesterday it would take a "flagrant" violation of the cease-fire by Hanoi, such as a massive new invasion of the south, for the United States to "consider" renewed bombing of Vietnam.

"For anything less than an attack on that scale," Richardson said, referring to last year's all-out invasion by Hanoi, "we think there is good reason to believe that a renewal of North Vietnamese aggression could be contained" by Saigon's own ground and air forces.

Questioned in a rare open session of the House Appropriations Subcommittee on Defense, Richardson yesterday appeared more interested in calling attention to the capabilities of the South Vietnamese than to the prospects for a resumption of American bombing in North and South Vietnam.

The Secretary, however, strongly defended the administration's authority to bomb in Vietnam again if necessary, and to continue the bombing in Cambodia, which has never stopped and which is drawing an increasing amount of fire on Capitol Hill.

Asked later by newsmen if he was confident that the United States was not getting involved in another long and continuing air war in Cambodia, Richardson would say only that the situation there is being "looked at on a day to day basis."

He said the U.S. objective is to bring about full compliance by Hanoi with the peace agreements signed in Paris and that it was "perfectly obvious" that the Communist forces in Cambodia could not continue fighting there without Hanoi's aid.

Adm. Thomas H. Moorer, Chairman of the Joint Chiefs of Staff, told the subcommittee that the North Vietnamese are training and advising the Cambodian Communists. They were also using the Cambodian bases to supply their forces in South Vietnam, thus helping to justify, in his view, the heavy aid continuing U.S. bombing raids, which have reportedly been concentrated on those supply areas.

Richardson said the Cambodian bombing campaign "was a sizable operation," though he would not provide any details. He did say it was "nowhere near" the level of the December bombing raids around Hanoi.

Reliable sources report that the United States has been sending about 150 fighter-bombers and 60 B–52 heavy bombers a day to strike Cambodia in recent weeks.

Richardson told the committee "we are undoubtedly in a transition period in which the fabric of the peace could be seriously torn."

On the other hand, he said, the trend in cease-fire violations inside South Vietnam is down, Saigon's forces are greatly improved, and "the odds are something better than even that they will achieve a stable peace" in Indochina.

"We have to keep open the possibility," however, the new Defense Secretary said, "that in the event of a serious crisis brought about by a flagrant violation of the cease-fire . . . if it were critical to the survival of South Vietnam . . . that we might have to provide significant help."

Such help, he said, if it were provided, would be air power, not ground troops.

Richardson said Hanoi was "unlikely in the short or middle-range future" to be able to mount an attack on the scale of last spring's big offensive. "We will know better a year from now," he said, as to the longer-term success of the cease-fire.

On the increasingly controversial issue of whether the President any longer has authority to bomb in Indochina—now that U.S. troops and POW's are home—Richardson said he believed the President's earlier authorities were still in force, but that the re-introduction of U.S. power after a long cease-fire period might in fact require new authorizations.

Richardson called the Cambodian situation one of "winding up a residual aspect of war in which we have been engaged for many years. I would say the President's authority to do this is a lesser included authority embraced by the constitutional powers he had to pursue the war to the point of the peace agreements."

Richardson said he didn't agree that the POWs and protection of U.S. troops was the only reason for bombing. He said the United States is still in a position where Hanoi has not complied with the peace agreements, and that he saw no reason why the government's "mere signature" on the peace terms "should terminate his authority."

Richardson said he thought the President's authority to use force in Indochina if necessary was clear as long as he was following up on the agreements, encouraging compliance with them and trying to bring the war to a close.

While the hearings focused on the lingering U.S. involvement in Southeast Asia, Appropriations Committee Chairman Rep. George H. Mahon (D-Tex.) also chided Richardson on the Pentagon's request for more than $85 billion in new budget authority.

"Why does peace cost more than war?" Mahon asked, citing an end to the war, improved relations with Russia and China and a "nagging" question about priorities in the minds of many, including himself.

Mr. McGOVERN. Mr. President, I yield the floor.

Mr. TOWER. Mr. President, I shall not address myself to the merits of the amendment proposed by the Senator from South Dakota because, in the opinion of the Senator from Texas, a point of order should lie against it in that the matter contained in the amendment offered by the Senator from South Dakota is not authorized within the purview of the consent agreement.

I, therefore, raise the point that the amendment of the Senator from South Dakota is out of order.

The PRESIDING OFFICER. No point of order as to the germaneness of the amendment of the Senator from South

Dakota is in order until the Senator's time has expired. He has 1 minute and 45 seconds remaining.

Mr. McGOVERN. Mr. President, in order to resolve this matter, I yield back the remainder of my time.

Mr. TOWER. Mr. President, I reiterate that I raise the point that the amendment of the distinguished Senator from South Dakota is not germane and is, therefore, out of order.

The PRESIDING OFFICER. When the Senate is operating under a unanimous-consent agreement limiting time for debate and requiring that amendments be germane, an amendment must be germane to the bill. Since the amendment of the Senator from Virginia does not mention Cambodia, Laos, or South Vietnam, the amendment is not germane.

Mr. McGOVERN. Mr. President, I am not going to appeal from the ruling of the Chair.

Mr. TOWER. Mr. President, I yield from my time to the Senator from South Dakota.

Mr. McGOVERN. If the Senator would yield me just a moment, I am not going to appeal from the ruling of the Chair because I do understand the unanimous-consent agreement under which we are operating. I can only say again I regret very much the parliamentary limitations of the agreement that ruled this amendment out of order, but I am encouraged in the knowledge that the Senator from Idaho (Mr. CHURCH) and the Senator from New Jersey (Mr. CASE) have a similar amendment that may be offered at a later time which would prevent American military operations in Indochina without the express approval of Congress. So on that basis, while I hope very much that the Senate will move at the earliest possible time on this proposal, I will not appeal from the ruling of the Chair, and I thank the Senator from Texas for yielding.

Mr. TOWER and Mr. CHILES addressed the Chair.

The PRESIDING OFFICER. The Senator from Texas.

Mr. TOWER. Mr. President, I yield myself such time as I may require.

I would like to again reiterate that I am not at this time in favor of any kind of direct assistance or indirect assistance to or for North Vietnam. I do not believe that they have shown yet a strong enough inclination to abandon the international banditry that they have engaged in now for so many years. I do think we would be foolish if we barred forever the prospect for any assistance to North Vietnam.

I think that certainly we should never offer any assistance to North Vietnam unless they are in total compliance with the agreements and protocols agreed to on January 27 of this year. That would be foolish. But there seems to be a suggestion on the part of a lot of people that the administration, somehow, intends to go ahead and sneak a little assistance over to North Vietnam without informing the Congress or coming to Congress for authority in the absence of total compliance with the agreements and protocols.

I would say that is not the case. The President of the United States has no intention, at a time when North Vietnam is engaged in violations of the cease-fire, of providing them with any kind of assistance, and any suggestion that he has that in mind I think is absurd.

There is bipartisan support for the amendment of the Senator from Virginia, and until this morning there was bipartisan opposition.

My principal objection to it is that it seems to indicate that perhaps we do not trust the President. For the part of this Senator, although I agree with the spirit of the amendment, although I would be very much opposed to giving assistance to North Vietnam without congressional authority, I trust the President when he says he would not proffer any kind of assistance until the administration comes to Congress for authorization. As I mentioned earlier, the President has said to us that that point has been made clear to the North Vietnamese in the Paris talks.

Therefore, I do not think what we do here today is necessary, except perhaps to express our opinion currently about aiding North Vietnam, which I do not think any of us would do at this moment, and this Senator certainly would not, and until such time as I can be assured that North Vietnam is in total compliance, and beyond that, is willing to give up any aggressive designs on any country and contribute to the stability and peace of Southeast Asia, I would oppose the amendment as much as, if not more vigorously than, any Senator here.

I think my record on Vietnam is very clear. I have not been one who has cried out every time a bomb has been dropped on Vietnam. I advocated the bombing of military targets in Hanoi and the mining of the harbor there several years back, going back to 1965. It finally came to pass. The Senator from South Carolina made some mention of how we have proceeded there. I point out that the rules of the game under which we operated had tied our hands and prevented us from bringing the war to a successful end, as was done with the rules of engagement proposed by this administration.

However much I agree with and am in sympathy with the idea expressed in this amendment, I still submit it is not responsible for us to try to make foreign policy in a few hours. I think it is something that we should do as a result of much in the way of hearings and consideration. That is my own view. Others may have a different view. Other intellectually honest men will take a different view of it. But I do not think we should tack foreign policy amendments on to a simple little piece of legislation calling for the revaluation of gold.

Well, we have added so much on here now that I am beginning to wonder if I am going to be able to support the bill when it finally comes to final passage. I wonder if the President really needs the legislation that revalues gold, which seems to be the least important part of it now. As a matter of fact, the passage of this legislation is for cosmetic purposes, anyway.

The President can get along without it if he does not have it. He said here the other day that he does not have to have it.

I have some real doubts about the way we have been legislating on this matter. I wish that the Senate could try to follow the kind of discipline that is followed in some legislative bodies where they only try to cover matters that are germane to major, or even to minor, legislation that comes on the floor of those legislative bodies.

I am not sure that I would be really content with that, because I know that it forges vehicles for matters which could not get to the floor or be considered otherwise. I know that useful legislation has been enacted that originated on the floor of the Senate and was not considered in the committee. I think that this time we have considered things of great importance. I think it is a perfect example. I think, of course, that it is certainly right to talk about South Vietnam and Cambodia and Laos in context with North Vietnam.

That is an example, though, of why we have to split hairs on germaneness when we get in this position of opening up a bill to everything under the shining sun.

I did not want particularly to urge the point of germaneness against the amendment of the Senator from South Dakota. He is an intellectually honest man. He believes in what he has offered. And it is proper to discuss it in connection with North Vietnam and South Vietnam. However, I had to do it because the Senate is going much too far afield in considering matters of such great importance in too short a time. I think that it is appropriate that this amendment was offered to the bill.

I yield such time as he may require to the Senator from Tennessee.

Mr. BAKER. Mr. President, I will not take long. I wish to say that I completely agree with the remarks of the Senator from Texas. And as proof of my agreement I prepared, and had intended to introduce today, an amendment to the Byrd amendment which would have provided that no reconstruction assistance could be provided to Hanoi, "until such time as the President determines the Government of North Vietnam and forces allied with such Government to be in general compliance with the Agreements and Protocols on Ending the War and Restoring Peace in Vietnam signed January 27, 1973."

Those of us in the Senate who support the President's efforts to bring a stable peace to Indochina want to make sure that we are not being dealt with in a cavalier fashion in terms of the recent enemy buildup and threats to the already fragile peace that was recently concluded. However, I will not offer that amendment at this time because it goes far beyond the scope of the matter at hand. It deserves thorough consideration by the proper jurisdictional committees of the Congress and then the full attention of us all before any decision by the Senate regarding aid is reached.

I thank the Senator from Texas for yielding so that I might say that I agree

with him. I shall not offer my amendment at this time.

Mr. TOWER. Mr. President, I thank the Senator from Tennessee, and I now yield to the Senator from Alaska.

Mr. STEVENS. Mr. President, I also agree with the Senator from Texas. I want to say that I, too, will not offer any amendment to the pending amendment.

I made my statement before. I think there is an indication on the part of some to have a mistrust of the President which I do not share. I do not think there is anything in the amendment that does not appear in existing law and proper constitutional procedures.

I see no reason, as I have said, to send a message to Hanoi that might be misinterpreted.

It is entirely possible that a program could be worked out which would have the support of all of the American people. I believe that the President should have that flexibility and that we should not prematurely act in a manner that could be misunderstood.

I thank the Senator from Texas. I will not offer any amendment either at this time.

Mr. TOWER. Mr. President, I might say to the Senator from Alaska, since I do not know whether he was present when I engaged in a previous colloquy with the Senator from Virginia on the matter of a search for gravesites, that the Senator from Virginia feels such an activity would be for the benefit of the United States and not for the benefit of North Vietnam, and, therefore, not proscribed by the amendments.

Mr. STEVENS. When the amendment says no assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, I think it could be interpreted in another manner by other authorities and by the court.

As one who supported the efforts to bring about the cessation of hostilities there, I think that we have a special duty now to assure that the President can use every means at his command to maintain peace.

I am highly alarmed that those who criticized the President at the time when he took action to bring about a cessation of hostilities are the people who will not support him in his attempt to maintain the peace.

I do not believe that this body should be taking that position. I cannot support the amendment.

Mr. TOWER. Mr. President, may I say that I am certain a point of order would lie against this amendment in the House and it would not be in the bill. I cannot conceive of a point of order not being raised in the House. Therefore, I am compelled to believe that it is a political exercise we are engaged in today in the consideration of this measure.

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

Mr. TOWER. Mr. President, is the Senator seeking time in support of the amendment?

Mr. CHILES. I am in support of the amendment. It is my understanding that the Senator from Virginia only has 4 minutes remaining, and he is not on the floor at the present time.

Mr. TOWER. Mr. President, I yield 3 minutes of my time.

Mr. MANSFIELD. Mr. President, I take the liberty of taking 2 minutes of the time from the Senator from Virginia.

Mr. CHILES. Mr. President, I thank the Senator from Texas and the majority leader.

I wish to speak in favor of the amendment of the Senator from Virginia. I think as the amendment has been now modified that it is a good amendment and something that the Senate should consider. Many of us are hearing from our constituents. We know that they are greatly concerned about the possibility of aid being offered to North Vietnam at this time. I am also tremendously concerned about this matter. We talk about rehabilitation. We should just determine where we should be talking about rehabilitation first. I think we only have to visit one of the veterans' hospitals—and there are some in my State—to see the need for an awful lot of rehabilitation for men that have been injured in Vietnam fighting for their country.

I think that is the kind of rehabilitation we should engage in, especially at a time when we have seen that there were some cuts actually made and some that were proposed and then rescinded, concerning aid to amputees and to veterans of the war in Vietnam. It seems to me that that is an area that we should be looking at when it comes to rehabilitation.

We also know the tremendous cost and expense of the war. We know of the funds that we have put into the war, and we know of the losses sustained in many of our cities by reason of the programs that we would like to have financed from the taxpayers' dollars for the rehabilitation that is necessary in those cities.

We know that many of these cities in this country have constantly been seeking aid from the Federal Government. We hear from mayors and other people that they cannot get funds for sewer projects and housing projects and other programs that have been cut.

Those are the areas where we want to look to determine what we will do about rehabilitation in this country before we start spending funds for rehabilitation in another area, when we now pay little or no attention to the peace accords.

In fact, from everything we hear, they have used this time to replenish their troops, to send more troops into the South, more materiel, and more equipment. Nothing would be stranger now, I think, or more foolhardy, than for us to send funds for rehabilitation to North Vietnam, with the action it is taking.

At the same time, I think the amendmen as modified by the Senator from Virginia does not say that Congress is never going to look at that situation. But it says specifically we want to look at a proposal, that we do want to see that it is a proposal that comes to us, that we get a chance to speak on, as constitutionally we should speak on it, and that there will not be any back-door financing or aid that will take place without the knowledge of Congress.

It seems to me there should be no reason now for anyone to be concerned about this amendment, or to have any reason to be against it. It seems to me it should receive a unanimous vote in this body, because unless some Senator is worried that there will be back door financing, or that this will be tying the hands of the executive department, certainly the pronouncement that Congress wants to have this authority should not concern us at all. So I hope the Senate will unanimously agree to the amendment.

The PRESIDING OFFICER. Who yields time?

Mr. HARRY F. BYRD, JR. Mr. President, I yield 5 minutes to the distinguished senior Senator from New York.

Mr. JAVITS. Mr. President, I shall support the Byrd amendment as modified, for the following three reasons:

First, because it represents a justified assertion of power by Congress, which we are making all along the line here, with respect to impoundment, with respect to war powers, and with respect to repairing the ravages of war.

Second, because the Committee on Foreign Relations, in reporting out the Foreign Assistance Act of 1973, took substantially the same position which is taken by the Byrd amendment in adopting an amendment by the Senator from New Jersey (Mr. CASE) which essentially imposed the same prohibition on aid to North Vietnam without prior specific authorization and appropriation by Congress.

Third, because it sharply defines the whole issue of aid to North Vietnam in principle.

I do not, as many Members do, equate aid expenditures of that character as competing in any way with expenditures for domestic purposes of any and all kinds. The President has also made this distinction clear. If that were our criterion, we must apply it to defense, to security, and to other matters which affect our external affairs, including the maintenance of a diplomatic establishment. Mr. President, the purpose of our utilization of money in the world is our participation of people's development and the participation in worldwide human rights so that the climate in which our country exists may be one most prosperous and congenial to it and to our people. Whatever it takes to accomplish that, we must be ready to spend, insofar as we can afford it, in whatever form it is best to be spent.

The virtue of the modification made by the Senator from Virginia is that it does not shut the door to the future. If, in the interests of peace, Congress, which at least must share that responsibility with the President, believes that aid to North Vietnam is necessary, the door remains open. I would hope that multilateral aid will be the channel and such aid ought to be pursued under a plan for the reconstruction of all Indochina. The only criteria for giving such aid is that it contributes to the peace; but if it will not, we should not do it on any count, and obviously now, Mr. President, there

is quite a raging war over there, to which North Vietnam is very much a party.

But to me the central point, to paraphrase Senator Vandenberg's words, is that if we are going to be in at the landings, we have to be in at the takeoffs, and the takeoff here is whether or not the conditions in that area of the world will be made more secure for peace through an aid program, in which we have an equal responsibility with that of the President.

If we do provide aid, Congress, therefore, must make it clear that it must be a party to that decision.

That is the historic constitutional struggle we are engaged in. We did it yesterday on impoundments; I hope we will do it tomorrow on war powers; and we must do it today on this very vexing question of aid to North Vietnam.

The matter of interpretation of this amendment is very important, though Senator TOWER feels it will not get anywhere. Perhaps it may not in this bill, but once the Senate expresses its will it has a good chance of getting somewhere, and in the proximate future, because it is badly needed as an injunction to the administration that whatever may have been its past promises, either overt or covert in negotiations, they can only be honored by congressional action through the power of the purse.

Therefore, I ask the author of the amendment this question: As I read the amendment, it is both retrospective and prospective in its application, because it says:

No funds made available by the Congress to any department or agency of the Government may be obligated or expended.

That is the past. It would also include the future, because our right to act is the future. So the question is, first, will we allow appropriations or authority already given to be used for this purpose by our future actions, or will we give that authority in future actions. In either case, it is not going to be by implication; it is going to be only by express and specific enactment of Congress; is that correct?

Mr. HARRY F. BYRD, JR. The Senator from New York is correct; it must be express and specific action by Congress taken in the future, before any funds can be utilized for that purpose.

Mr. COTTON. Mr. President, will the Senator yield me a minute just to pursue that question?

Mr. HARRY F. BYRD, JR. I yield.

Mr. COTTON. I am still worried about the word "hereafter," as added to the modified amendment.

If it simply read that—

No funds made available by the Congress to any department or agency of the Government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized by Congress—

It would be just as clear as day. But "unless specifically authorized hereafter by the Congress," I have been having the feeling that that could lead somebody downtown to the interpretation that promises made before now, promises or agreements made by the President or Kissinger or someone else heretofore, might not require this very specific congressional appropriation and authority. The word "hereafter" bothers me.

Mr. HARRY F. BYRD, JR. I say to the Senator from New Hampshire that it was put in there especially to make it more inclusive, for this reason: In drawing the modification, it was felt that unless we used that word, if we used "unless specifically authorized by Congress," some previous appropriations which have been authorized by Congress might be construed by someone in the executive branch to permit their use in North Vietnam. This amendment says that it will take future action by Congress, after this measure is enacted, before any funds of any type or description, previously authorized or anything else, can be used for the benefit of North Vietnam.

Mr. COTTON. The distinguished Senator from Virginia added that himself, did he not?

Mr. HARRY F. BYRD, JR. Yes.

The PRESIDING OFFICER. The time of the Senator from New Hampshire has expired.

Mr. COTTON. May I have a half minute more?

Mr. HARRY F. BYRD, JR. Yes.

Mr. COTTON. Therefore, we may consider that the legislative history made by this colloquy indicates that any promises, implied or specific, made heretofore by any one representing the United States, for aid to North Vietnam, cannot be honored unless Congress specifically, sometime in the future, confirms it?

Mr. HARRY F. BYRD, JR. The Senator is correct. If this legislation is enacted, no funds can be expended for the benefit of North Vietnam unless at some future date Congress itself authorizes the expenditure of those funds.

Mr. COTTON. I thank the Senator.

Mr. HARRY F. BYRD, JR. Mr. President, I thank the distinguished Senator from New Hampshire. I reserve the remainder of my time.

REINTRODUCTION OF AMERICAN FORCES INTO VIETNAM

Mr. BAYH. Mr. President, I was intending to offer today for the consideration of the Senate an amendment, a copy of which I ask unanimous consent to have printed in the RECORD, which would in addition to denying aid and assistance to our former enemies, the North Vietnamese, also assure that the United States would not reinvolve itself in any continued fighting in this tragic and wartorn country without a congressional declaration of war. Because of the Chair's ruling that the amendment is out of order at this time, I will withhold doing so. There have been disturbing reports in recent days that the President may be on the verge of reintroducing American air power into North and South Vietnam. I hope that these reports are wrong. No war in our history has been longer and more bitterly divisive. I, along with all other Americans, thank God that we have finally been able to end our involvement in it. For the President to now be giving serious consideration to reinvolving our forces in this civil conflict is to me, as to most Americans, unthinkable. Our prisoners are home; we do not want any more boys captured. Over the last two weeks we have heard how inhumanely they were treated by the North Vietnamese. But as soon as the first American airplanes again begin to fly over the skies of Vietnam, we can be sure that there will be more prisoners, and we will be right back where we started.

We have been more than generous with the Government of South Vietnam. We plan to continue to provide them with a limited amount of military aid to provide for their self-defense. But it is their fight now, not ours. If the Government of South Vietnam, with more than a million men under arms, equipped with some of the most modern and sophisticated weapons of ground and air warfare, cannot protect that small nation's security, then the United States cannot and should not either.

Congress has a constitutional obligation to assert its right to decide whether the Nation will again go to war. It is conceivable that circumstances in Southeast Asia could develop which would require such action. In my view it is unlikely. But we must, in view of recent history, take this action now to assure the country that the President will not unilaterally again take the Nation into war. That means aid to North Vietnam and that means American boys fighting there.

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

At an appropriate point add the following new section:

SEC. —. Whereas: The United States for many years engaged in armed conflict in North and South Vietnam.

Whereas: The United States Government entered into an agreement with the governments of North Vietnam, South Vietnam and Provisionary Revolutionary Government of Vietnam to terminate hostilities and withdraw all ground combat forces from South Vietnam and to cease all acts of war against the territory of North Vietnam.

Whereas: All American combat personnel have now been repatriated to the United States and all American prisoners of war have been released.

Be it therefore enacted by the Senate and House of Representatives of the United States in Congress assembled, That In the absence of a duly authorized Declaration of War by the Congress of the United States, no United States ground, naval, or air forces shall be introduced into or over the territory of North or South Vietnam.

QUORUM CALL

Mr. TOWER. Mr. President, I ask unanimous consent that I may suggest the absence of a quorum with the time to be charged against my time.

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

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, how much time remains in the control of

the distinguished Senator from Virginia, and how much time remains in the control of the Senator from Texas?

The PRESIDING OFFICER (Mr. STAFFORD). The Chair advises the Senator from Texas that he has 19 minutes remaining, and the Senator from Virginia has 2 minutes remaining.

Mr. TOWER. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be charged to my time.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, I yield 3 minutes of my time to the distinguished Senator from Virginia to dispose of as he sees fit.

Mr. HARRY F. BYRD, JR. Mr. President, the Senate will vote in a few minutes on amendment No. 76. This amendment would prevent the use of any tax funds for the benefit of North Vietnam unless, by specific action of Congress, the use of such funds is specifically authorized.

I think that to go into a new foreign aid program at this time would be a very unwise step for the American Government to take. This amendment in itself, of course, does not prevent that from being done at some time in the future. But approval of this amendment today by the Senate would, I believe, send a signal that the Senate of the United States is not sympathetic toward providing tax funds for the benefit of North Vietnam.

If this amendment is adopted, it will almost certainly mean that there will be no program of aid to North Vietnam. I am strongly opposed to such a proposal of aid to North Vietnam. It is completely unjustified. It would be in the nature of reparations, and, in my judgment, would not be at all appropriate.

I hope the Senate will support this amendment. It has been debated for several days now. I first began to discuss this subject about 6 weeks ago. I think it is an important subject, because if the amendment is not agreed to, an effort most certainly will be made to create such a program.

Mr. President, before closing, I wish to commend the distinguished junior Senator from South Carolina (Mr. HOLLINGS) for the strong help he has given, both yesterday and today, in the handling of this amendment. He also made a very effective speech today in behalf of it. I am grateful to him.

Mr. President, I ask unanimous consent that the name of the Senator from Georgia (Mr. NUNN) be added as a cosponsor.

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

Mr. BAYH. Mr. President, as a cosponsor of the amendment which has been offered by the distinbuished Senator from Virginia (Mr. HARRY F. BYRD). I urge my colleagues to join with us in opposition to financial assistance to North Vietnam.

We are all thankful that at long last the American involvement in Vietnam has come to an end, and that our prisoners have been returned to their homes and families. Now, as I have insisted since the idea of aid to North Vietnam was first proposed, we must care for the poor, the veteran, and the disadvantaged at home before we consider sending scarce tax dollars to our former adversary. I for one would rather spend our money rebuilding America than reconstructing North Vietnam. And this view has been strengthened by the recent reports from our POW's of the inhumane treatment they received.

At a time when the national priorities can and should be reordered, at a time that vital domestic programs are being cutback by unilateral executive action, it is inconceivable to me that we should seriously consider sending $2.5 billion to North Vietnam. Some will say that this is the best way to insure peace, and they will point to the successful and mutually advantageous results of assistance to our conquered enemies after World War II. I do not think that the analogy is persuasive. We did not rebuild North Korea though, as in Vietnam, our involvement ended with a cease-fire. In neither Korea nor North Vietnam did we reach a final settlement as we did after World War II. And North Vietnam, unlike the Axis powers, has powerful and wealthy countries to turn to for assistance—her allies, Russia and China. Moreover, I am not persuaded that the case has been made demonstrating that our assistance will discourage North Vietnam from continuing the aggressive policies to which she has been committed for 25 years. Her leadership today, unlike the situation of our World War II enemies, is essentially the same as it was during the conflict.

There is an additional reason that I support this amendment. It effectively prevents the President from disregarding the will of the Congress and the people with respect to aid to North Vietnam. It states in plain language that:

> No funds made available by the Congress to any Department or Agency of the government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam.

Thus, until and unless the Congress specifically appropriates funds for assistance to North Vietnam, no funds will be diverted from necessary domestic programs or defense programs for North Vietnam. This leaves the power to determine the amount, terms, and advisability of such assistance, if any, where it belongs—in the hands of Congress.

For these reasons Mr. President I fully support the pending amendment. As a matter of national priorities, and considering our efforts to control inflation and limit Federal expenditures in the coming year—and as a matter of the constitutional separation of powers—this amendment deserves wide support.

AID TO NORTH VIETNAM? THE ANSWER IS, NO!

Mr. HELMS. Mr. President, I wish to commend my distinguished colleague and good friend, the senior Senator from Virginia (Mr. HARRY F. BYRD). Once again he has demonstrated his perception and wisdom, and I join in enthusiastic support of his position, so eloquently stated in this Chamber, on the subject of sending the tax dollars of hard-working Americans to North Vietnam.

Rarely are we confronted with a public issue that is at once very controversial and very simple. The matter of U.S. aid for North Vietnam is such an issue.

It is controversial because some people have concocted various arguments that attempt to show that the United States is "obligated" in some way to aid North Vietnam.

But the issue really is simple: Should we use U.S. tax dollars to reward North Vietnam's aggression? The answer is, simply, no.

The answer is not, "No aid unless."

The answer is not, "No aid except under the following conditions."

The answer is not, "No aid except multilateral aid."

The answer to the question, "Should we aid North Vietnam?" is: "No." Period.

Fortunately, in spite of the efforts of some interested parties to make this matter seem very complicated, the American people know that it is very simple.

The American people are not enthusiastic about any foreign aid programs.

The American people are especially unenthusiastic about giving their hard-earned tax dollars to unfriendly nations.

The American people are dead set against giving theird hard-earned tax dollars to a nation that has just recently been killing American men, and using American prisoners as pawns in a cruel game of blackmail.

And the American people will never accept a policy of giving their hard-earned tax dollars to an enemy nation that continues to wage war against our allies in South Vietnam.

We are told that we must aid North Vietnam because during the Paris peace talks someone—Dr. Kissinger, or someone else—promised aid. This is transparent nonsense. I do not care who promised what to whom in Paris. American constitutional government does not allow for American money to be given away by diplomats, without the consent of the Congress, the first branch of Government. Some people operating our foreign policy really seem to believe that Congress will follow docilely behind, like a tame and timid puppy, doing whatever the diplomats command it to do. These diplomats are very much mistaken.

The people of North Carolina did not send me to the Senate merely to passively ratify whatever this or that representative of the executive branch chooses to promise to this or that foreign government. In recent years there has been a great deal of talk in the Congress, and especially in the Senate, about the need to reassert congressional responsibility in the field of foreign policy. If today we just roll over and play dead while the executive branch barters away tax dollars for the North Vietnamese, then we do not deserve to have any role in setting foreign policy.

There is nothing more foolish than the comparison of the proposed aid to North Vietnam and the aid we gave to Japan and Germany at the end of the Second World War.

First, we had used our full military

power against Japan and Germany to get them to surrender unconditionally. As a result, we became an occupying power, and could directly control the use to which our aid was put.

This is not the case in North Vietnam today.

Second, at the end of World War II, the aggressive dictatorships in Japan and Germany were dissolved.

The situation in North Vietnam today is totally different. The North Vietnamese dictatorship is still firmly in control. We have no reason to believe that this dictatorship would use U.S. aid for humanitarian purposes. On the contrary, we have every reason to believe that North Vietnam would use aid for exactly the purposes it uses all its energies—waging or supporting war against its neighbors.

I know that some people say we can devise aid programs that will prevent this. They say that multilateral aid will not be used for this purpose. Or that we can carefully select U.S. aid in such a way that it could not be used to further the aggressive plans of North Vietnam. But this is nonsense. Even if we confined aid to allegedly nonmilitary goods—food, medical supplies, housing—and even if we disbursed aid through a multilateral agency, this would still make warmaking easier for North Vietnam.

Any aid that is useful for anything will make warmaking easier for North Vietnam. Any aid will enable North Vietnam to turn more resources—human and material—away from its pressing domestic needs and to the business of making war.

Those favoring aid for North Vietnam say that it would be humanitarian to aid North Vietnam. But against this, there are two things that must be said.

First, why should American citizens feel "obligated" to be more humane to the North Vietnamese people than the North Vietnamese Government is to its own people? If the North Vietnamese Government cared about the welfare of its own people, it would cease making war outside North Vietnam, and would start making a better society inside North Vietnam.

Second, why should the American Government care more for the welfare of the North Vietnamese people than for the welfare of the American people? I do not know about the rest of the country, but I know that the people of North Carolina think their taxes are already too high. The people of North Carolina think the Federal Government takes too much from their paychecks and spends it in many ways that are foolish. North Carolinians do not think they have even a thin dime to spare for the Government of North Vietnam.

True, the President has assured us that aid for North Vietnam will not come out of the domestic side of the budget, but will come out of the national security side. I find this "assurance" quite disturbing. The President's statement makes it crystal clear that we shall be weakening our national security budget by giving a portion of it to an enemy power. But consider a few facts. The domestic side of the budget is much larger than the national security side. There is much more fat and waste in the domestic side than in the national security side. The pressures in Congress are overwhelmingly against the national security side, and in favor of further inflating the domestic side of the budget. Yet now the President proposes, in effect, to join the raid against the national security budget—and to join it in the name of helping our North Vietnamese enemy.

The final argument for aiding North Vietnam is also the most transparently foolish argument. It is that our aid will strengthen the position of the "doves" in the North Vietnamese Government. The answer to this argument is a question: "What 'doves'?"

The "doves" who ordered the first infiltration of South Vietnam in the 1950's?

The "doves" who ordered the first North Vietnamese troops into the south more than a decade ago?

The "doves" who built the world's most sophisticated antiaircraft defenses around North Vietnam's cities?

The "doves" who ordered the Tet offensive in 1968?

The "doves" who ordered the mass exterminations, in Hue and elsewhere, and whose order filled mass graves with innocent civilian victims?

The "doves" who, we are now learning, mistreated many of our prisoners?

Just where have these so-called "doves" been all these years?

And where are they today? They are in power in Hanoi doing what Hanoi "doves" always do—waging war.

Dr. Kissinger acknowledges that the North Vietnamese leaders are "revolutionaries"—that is his word—and so they will not abandon their goal of unifying Vietnam under their dictatorship. But Dr. Kissinger says he hopes they will rely on "moral example" to do this.

So what are we to believe? The North Vietnamese Government is full of "revolutionary doves"? I doubt it very much. And I know that these so-called doves are not relying on moral example to achieve their revolutionary goal. Our own Government reports that they are relying on much more tangible things.

Today, barely 2 months after the so-called peace agreement, we know all we need to know about the reckless, wanton violation of the so-called peace agreement on the part of the North Vietnamese. The Ho Chi Minh trail once again is as crowded as the Washington Beltway. The traffic is almost bumper to bumper as men and materials—including 300 tanks—are rushed south. This makes two things very clear.

First, if the North Vietnamese Government wanted to aid the North Vietnamese people as much as some Americans want to aid the North Vietnamese people, then the North Vietnamese Government would expend less men and resources on killing the people of South Vietnam.

Second, if there really were as many "doves" in the North Vietnamese Government as some Americans seem to think, then there would be fewer tanks on the Ho Chi Minh trail. Unfortunately the alleged "doves" in North Vietnam are not as powerful as the doves in the United States. The doves here did handicap our efforts to defeat North Vietnam's aggression. The doves in North Vietnam—assuming they exist—have never been able to inhibit North Vietnam's aggression.

When all the silly arguments are stripped away, it becomes apparent that U.S. aid to North Vietnam must seem like reparations. Thus, those who favor U.S. aid seem to accept the doctrine that the United States owes North Vietnam a kind of monetary apology. What are we apologizing for? Evidently for helping our allies resist North Vietnamese aggression. This is absurd, but it is the position that emerges from the small and dwindling bloc of people who want to aid Hanoi.

My position is clear.

I reject every argument advanced for aid to North Vietnam. I pledge not to vote so much as one thin dime to North Vietnam. I am confident that I shall be joined in this position by a comfortable majority in both Houses of Congress.

Mr. BARTLETT. Mr. President, I cannot support assisting a government which has committed the atrocities of North Vietnam and which still governs the North Vietnamese.

The North Vietnamese Government has perpetrated tortures and inhumanities on our POW's for which they must be held accountable.

This same North Vietnamese Government for our assistance committed naked aggression against our ally, South Vietnam.

This same North Vietnamese government continues to occupy South Vietnam and to carry on military operations against the South Vietnamese. Our economic support of North Vietnam would have direct military impact against the South Vietnamese.

The conclusion of this war is far different from World War II. While we do have an honorable peace, the same North Vietnamese Government continues in power. The new governments of Japan and Germany immediately after the war denounced the military aggression and activities of their predecessor governments. Yet North Vietnam continues her same propaganda and military aggression.

We do have an obligation in Indochina to our ally, South Vietnam. The eventual winner in Southeast Asia will not necessarily be the country with the biggest army—but will be the one with the strongest economy. Let us not kid ourselves that North and South Vietnam have an automatically peaceful future. Any aid we would give to North Vietnam would benefit her in her ability to take over South Vietnam—militarily and economically.

Russia and China were perfectly willing to assist North Vietnam in waging war. Now, let them assist her economically to help assure a continuing peace.

Mr. HARRY F. BYRD, JR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is not a sufficient second.

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

Mr. TOWER and Mr. HARRY F. BYRD, JR. I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. TOWER. Mr. President, I will yield further time to the Senator from Virginia if he so desires.

The PRESIDING OFFICER. Does the Senator from Virginia wish to be recognized?

Mr. TOWER. Mr. President, I yield 2 minutes to the Senator from Virginia.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. HARRY F. BYRD, JR. Mr. President, I think the case has been made for this legislation. I will not detain the Senate longer.

I do want to close by making clear once again my own strong opposition to a program, a new program of foreign assistance to North Vietnam. We must get our own spending under control here in the United States. We have a vast number of foreign aid programs totaling $9.5 billion. It would be most unwise to go into a new program. I think enactment of this amendment will do a great deal toward eliminating any such possibility.

Mr. President, I ask unanimous consent that the name of the distinguished Senator from Delaware (Mr. BIDEN) be added as a cosponsor.

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

Mr. HARRY F. BYRD, JR. I yield back the remainder of my time.

The PRESIDING OFFICER. Who yields time?

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER OF BUSINESS

Mr. STEVENS. Mr. President, will the Senator from Texas yield to me for 2 minutes?

Mr. TOWER. I yield 2 minutes to the Senator from Alaska.

THE TRANS-ALASKA PIPELINE

Mr. STEVENS. Mr. President, there has been a significant development in connection with the Trans-Alaska pipeline. I am informed that Rogers C. B. Morton, the Secretary of the Interior, met with the President and that at the President's request he has dispatched to each Member of Congress a letter setting forth once again the position of the administration on the Trans-Alaska pipeline. This letter discusses in depth the views of the administration on the alternative routes that have been suggested for transporting Alaska's North Slope oil to what we call the south 48. Once again, in strong terms the administration has expressed strong support for the Trans-Alaska pipeline.

Mr. President, I ask unanimous consent to have printed in the RECORD the letter from Secretary of Interior Rogers C. B. Morton and a fact sheet relating to the Trans-Alaska versus the Trans-Canada pipeline.

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

U.S. DEPARTMENT OF THE INTERIOR,
Washington, D.C.

DEAR SENATOR: The President has recently received a number of letters concerning the proposed Trans-Alaska pipeline. He has asked me to share with you our view of some of the issues raised.

Now that the Supreme Court has declined to review the Court of Appeals decision in the *Alaska Pipeline* case, Congress must enact new right-of-way legislation before I can authorize construction of any major pipeline across the public lands. Prompt adoption of such legislation is required by our overall national interest. It is also in our national interest that the Alaska pipeline be built as soon as possible and that the Congress not force a delay of this project while further consideration is given to a pipeline through Canada.

The United States is faced with a serious imbalance between domestic energy supply and demand. Almost every region of our country and every sector of our economy is affected. Last year we imported 1.7 billion barrels of foreign oil at a cost in first-round balance of payments outflows of approximately $6 billion. The President will, in the near future, address a special message to the Congress on the entire question of national energy policy.

Despite all the efforts we can and must make to increase our domestic resource base, by 1980 we will probably have to import about 4 billion barrels of oil with first-round balance of payments outflows of about $16.0 billion, in the absence of oil from the North Slope of Alaska. The Alaska pipeline will not avoid the necessity to purchase foreign oil, but it will reduce the amount we have to buy.

In the past few months, we have witnessed difficulties occasioned by too large an unfavorable balance of payments and too large an accumulation of dollars abroad. Because we must purchase abroad every barrel of oil that we do not get from the North Slope, for the next 10–20 years at least, I am fully convinced that it is in our national interest to get as much Alaska oil as possible delivered to the U.S. market as soon as possible. I am equally convinced that prompt construction of a Trans-Alaskan pipeline is the best available way to accomplish both of these objectives.

Several of the letters we have received advocate that we abandon the Trans-Alaska route in favor of a pipeline through Canada or at least delay the Alaska pipeline until we can conduct further environmental studies of a Canadian route and initiate intensive negotiations with the Canadian government. In support of this position, it is argued that a Trans-Canadian pipeline would be both environmentally and economically superior to a Trans-Alaska route, and that in view of the recent decision in the pipeline case, it is now quite likely that a pipeline could be built more quickly through Canada than through Alaska.

Let me explain why I disagree with these points.

First, a Canadian route would not be superior from an environmental point of view. No Canadian route has been specified. But the environmental impact statement prepared in connection with the Alaska route considered various possible Canadian routes, and from the information available it is possible to make a judgment about the relative environmental merits of the various Canadian routes and the proposed Alaska route. The Alaska and Canada routes are equal in terms of their effect on land based wildlife and on surface and ground water. However, it is clear that any pipeline through Canada would involve more unavoidable environmental damage than the Alaska route. Because the Canadian route is about 4 times as long, it would affect more wilderness, disrupt more wildlife habitat, cross almost twice as much permafrost, and necessitate use of three or four times as much gravel that has to be dug from the earth; and it would obviously use about four times as much land.

The potential environmental damage of these alternatives is more difficult to assess. The two routes are approximately equivalent with respect to risks from slope failure and permafrost. A Canadian route would not cross as much seismically active terrain or require a marine leg. It would however, involve many more crossings of large rivers, which, experience proves, are a major source of pipeline damage and, thus, environmental damage. River crossings present difficult construction problems; and the main hazard during operation comes from floods which scour out the river bed and bank, and if large enough, may expose the pipe to buffeting from boulders and swift currents and, thence, rupture. It is generally the rule that the wider the river, the greater the risks.

The environmental risks involved in the Alaska route are not insurmountable. They can be guarded against. The environmental and technical stipulations that I will attach to the Alaska pipeline permit will assure that this pipeline is designed to withstand the largest earth quake that has ever been experienced in Alaska; it will be designed and constructed more carefully than many buildings in known earthquake zones, such as Los Angeles and San Francisco. Moreover, we are insisting that operation of the maritime leg be safer than any other maritime oil transport system now in operation. If our West Coast markets don't receive their oil from Alaska in U.S. tankers that comply with the requirements we are imposing, their oil will probably be imported in foreign flag tankers that are built and operated to much lower standards.

It is important to recognize that while we can go far to study and control the environmental risks that are involved in an American-owned transportation system located on American soil, we have no jurisdiction to take comparable actions on Canadian soil. I cannot, as requested in some of the letters, "immediately begin comprehensive environmental studies of a Canadian pipeline route" because such an action would encroach on foreign sovereignty. I cannot order the more than 3,000 core samples in Canada of the type that were made of the Alaska route. I cannot even order a simple survey.

Our environmental impact study was based on the best information available about Canada. I believe it would be contrary to our national interests to delay this matter further by seeking additional detailed information about a route that has not been requested or designated by any of the companies or governments involved.

Second, it is clear that from the viewpoint of our national interest, as distinguished from the interest of any single region, the Trans-Alaskan route is economically preferable. The United States Government has had a number of discussions with responsible Canadian officials about a possible pipeline through Canada. Some of these discussions were through the State Department, and

one year ago I personally met with Mr. Donald Macdonald, the Canadian Minister of Mines, Energy and Resources. Responsible Canadian officials, at these meetings and in subsequent policy statements, have made it clear that there are certain conditions that the Government of Canada would impose on any pipeline through Canada. These are: (1) a majority of the equity interest in the line would have to be Canadian (in this connection, ownership by a Canadian subsidiary of an American company would not qualify as Canadian ownership); (2) the management would have to be Canadian; (3) a major portion (at least 50%) of the capacity of the line would have to be reserved for the transportation of Canadian-owned oil, with the primary objective being to carry Canadian oil to Canada—not United States—markets; and (4) at all times preference would be given to Canadian-owned and controlled groups during the construction of the project and in supplying materials. Since our meetings with the Canadians, these four requirements have been reiterated by them many times in public statements, and we have never had any indication that their insistence on them has lessened. In fact, recent pronouncements from Canada suggest these four elements are more important than ever to the Canadian Government. The question, then, is not simply whether Canada is willing to have a pipeline built through its territory (although no Canadian official has ever said it is willing), but also whether the four requirements Canada would impose are acceptable in light of the United States National interest.

These four requirements are probably reasonable from the point of view of Canada's national interests. They are unacceptable from the point of view of our national interests when we have the alternative of a pipeline through Alaska that will be built by American labor and will deliver its full capacity of American-owned oil to our markets. The Alaska route would be economically superior from our point of view even if we could be assured of getting for our market all the Canadian oil it would carry, because of the balance of payments costs we would incur by importing additional foreign-owned oil. There is a prospect of even worse consequences from a Canadian pipeline. Recent estimates by the Canadian Energy Board show that Canada's demand for oil from her western provinces will soon equal or exceed production; and, unless major new sources are discovered, the eventual result will be the cessation of Canadian exports of oil to the United States. The seriousness of this developing situation was demonstrated just last month, when Canada imposed controls on the export of crude oil

Third, even though the recent Court of Appeals decision has caused delay and the Supreme Court has refused to review the case, it is clear that a Trans-Alaska pipeline can be built much more quickly than a Trans-Canadian line. The companies who own the North Slope oil have not indicated a desire to build through Canada. Before an application for a Canadian route could be approved a number of time-consuming steps would be necessary that have already been accomplished for the Alaskan route: detailed environmental and engineering investigations, including thousands of core holes, would be required prior to design; a complex, specific project description would have to be developed; following that, another U.S. environmental impact statement would have to be prepared for the portion (at least 200 miles) of the line in Alaska and its extensions in the "lower 48" states; permits from the provincial and National Energy Boards of Canada would have to be requested, reviewed, and approved; and Canadian native claims would probably have to be resolved, a process that took years in the United States. Moreover, specific arrangements between the U.S. and Canadian governments would be necessary to protect U.S. national interest and provide an operating regime for this international pipeline. Finally, the task of arranging the financing of a Trans-Canada line would be extremely difficult. The capital required to meet the condition of majority Canadian equity ownership will strain Canadian financial sources; and finalization of new financial arrangements could take years to complete. Whether all these steps are even possible, however, must be viewed in the context of the political and environmental controversy in Canada about the wisdom and feasibility of a Canada pipeline and the recently repeated position of the Canadian Government that it has "no commitment to a northern pipeline at this stage."

In contrast, the only two remaining steps required to commence construction of the Trans-Alaskan route are for the Congress to grant me authority to issue permits necessary for a pipeline of this size and for the Courts to determine that the environmental impact statement complied with the requirements of the National Environmental Policy Act. Both steps are also required for a pipeline in Canada, because the recent Court of Appeals decision applies to the U.S. portion of any line through Canada.

I sincerely hope that a great deal of oil is discovered in Northern Canada and that these finds together with increased reserves of Alaskan oil soon justify a second pipeline, or other delivery system, to bring oil, natural gas or both through Canada to our Midwest. It is in our interest to increase our secure sources of foreign oil as well as to increase our domestic resource base. However, for all the reasons listed above, I do not believe it is in our interest to delay the Trans-Alaska pipeline any longer than required by the Court of Appeals decision and I do not believe it is now in our interest to request negotiations with the Canadian government for a pipeline route through their country.

By stressing so strongly my belief that a Trans-Alaska pipeline is in our national interest, I do not mean to imply that we are insensitive to the energy requirements of the Midwest. The Administration has taken, and will continue to take, such steps as are necessary to assure that these requirements are met; just last week, for example, oil import restrictions were lifted to bring additional oil to the Midwest.

Moreover, some of the advantages to the Midwest that are claimed for a Trans-Canada pipeline will not, in fact, occur. For example, an oil pipeline through Canada will not affect fuel prices in that area, because price is set by the much greater volume of oil coming north from the Gulf of Mexico; and North Slope oil would provide only a portion of the total Midwest demand. Nor is it true, as some claim, that the West Coast does not need nor cannot use all of the oil delivered by a Trans-Alaska pipeline. In 1972, demand in that area was 2.3 million barrels per day (MMbpd), of which 1.5 million barrels was obtained from domestic sources and 0.8 million barrels was imported (0.3 MMbpd from Canada, 0.1 MMbpd from other Western Hemisphere sources and 0.4 MMbpd from relatively insecure Eastern Hemisphere sources). The best available projections show that by 1980, and for subsequent years, the West Coast demand will exceed domestic production and Canadian exports available in that area by at least the capacity of the Trans-Alaska pipeline.

As much as I would like to assure the Midwest even a marginal increase in the security of its total energy supply, it is more important now to assure that the total economic and energy security interests of all the people of the U.S. are served by getting as much American-owned oil as possible to the U.S. market as soon as possible.

I hope the views expressed in this letter will be helpful to you in your consideration of this issue.

Yours sincerely,

———— ————,

Secretary of the Interior.

FACT SHEET: TRANS-ALASKA VERSUS TRANS-CANADA PIPELINE

CHRONOLOGY

Feb. 1968—Major oil discovery announced.

Apr. 1969—Interior establishes task force.

May 1969—President Nixon expands task force to include all concerned Federal agencies.

June 1969—Pipeline application received.

Aug.–Dec. 1969—Public hearings in Alaska and Washington.

Oct. 1969—Preliminary environmental stipulations approved.

Jan. 1970—National Environmental Policy Act takes effect.

Apr. 1970—Preliminary injunction against issuance of permits.

Jan. 1971—Draft environmental impact statement issued.

Feb.–Mar. 1971—Public hearings in Alaska and Washington.

Feb. 1972—Revised technical and environmental stipulations issued.

Mar. 1972—Final environmental impact statement issued.

May 1972—Secretary Morton announces intention to issue permits.

Aug. 1972—District Court dissolves preliminary injunction.

Feb. 1973—Appeals Court reverses; enjoins construction.

Apr. 1973—Supreme Court declined to review the Court of Appeals decision.

POINTS FAVORING DECISION TO GRANT PERMIT FOR ALASKA PIPELINE

Construction of the pipeline in Alaska will produce about 26,000 U.S. construction jobs in Alaska (peak), 73,000 man-years of U.S. tanker construction, 770 man-years of U.S. maritime crews and maintenance, which would be lost if the line went through Canada because the Canadian government has said it will at all times insist on a preference for Canadian labor and materials.

Construction of the line in Alaska will produce much more royalty income, and sooner, for the State of Alaska and for the Alaska natives than a Canada pipeline.

The U.S. needs as much North Slope oil in the U.S. market as soon as possible to meet our energy needs consistently with our economic and security interests. In 1972 the U.S. demand for petroleum was 16.6 mil. barrells per day, of which District V accounted for 2.3 mil, barrels per day. Of this total, 4.7 mil. barrels per day was imported in the total U.S. and .8 mil. barrels per day imported into District V. The projected supply-demand situation, as reflected in the Department's economic and security analysis prepared in conjunction with the enivronmental impact statement is as follows:

	Total United States		District V (West Coast)	
	1980	1985	1980	1985
Demand (thousands of barrels per day)	23, 290	27, 480	3, 315	4, 052
Supply (thousands of barrels per day):				
Domestic production (without north slope)	11, 350	10, 320	1, 278	1, 100
North slope	1, 500	2, 000	1, 500	2, 000
Imports	10, 440	15, 160	537	952
Imports as percent of demand:				
With north slope	45	55	16	23
Without north slope	51	62	61	73

Obviously, all Alaskan oil can be consumed on West Coast, taking place of foreign oil that would have to be imported. There is no indication of any export of Alaska oil.

The Alaska route will deliver oil to the U.S. market sooner than a line through Canada because construction of a Trans-Alaska route can start as soon as legal issues are resolved. Construction of Canadian route cannot begin until these issues are resolved (because over 200 miles will be in Alaska) and until the following additional steps are completed: detailed field study, detailed project description, new corporate arrangements, a U.S. environmental impact statement covering the 200 miles of the line in Alaska, and Canadian approval, which may be delayed by native claims and environmental issues. Moreover, no one has applied to build a Canada line. Canadian conditions will make new financial arrangements difficult and time-consuming.

An Alaska pipeline will deliver more U.S.-owned oil to the U.S. because the Canadian government has said it will insist on majority equity ownership, management of the pipeline, and reservation of up to 50% of pipeline capacity for Canadian oil, which may go to Canadian markets. This last point is of particular concern in view of recent Canadian export controls and Energy Board findings that Canada may have no surplus to export in the near future. Moreover, even if we could get Canadian oil, there will be an adverse impact on our balance of payments from purchasing it rather than Alaskan oil.

POINTS MADE IN FAVOR OF A TRANS-CANADA PIPELINE

A Trans-Canada route would (i) avoid areas of high seismic hazard, (ii) avoid a marine leg, (iii) interfere less with caribou migrations, and (iv) might be combined with a gas line in a single corridor.

A Trans-Canada route would deliver oil to the Midwest, where, some assert, it is needed more than on the West Coast.

The time advantage of the Trans-Alaska rout may be reduced because commencement of construction has been stalled by the Court of Appeals decision and the Supreme Court's refusal to review the case. (Some assert the Court of Appeals opinion removes this time advantage, but, for the reasons listed above, this point is not valid.)

COMPARISON OF ENVIRONMENTAL IMPACTS—CANADIAN VERSUS ALASKAN ROUTES

Unavoidable Impacts:

Canadian route would require approximately 4 times as much land and gravel as Alaskan route.

Canadian route would cross more major rivers and create more drainage diversion than Alaskan route.

Potential Impacts:

Alaskan and Canadian routes are about equal in terms of permafrost risk.

Alaskan route crosses more seismically active terrain than Canadian route.

Alaskan route requires a marine leg.

Canadian route involves greater risk of pipeline break at river crossings, which are high-hazard areas.

Stipulations:

Environmental and technical stipulations in U.S. permit will guard against risks on the Trans-Alaska route; but the U.S. cannot control and supervise construction in Canada.

Mr. TOWER. Mr. President, I suggest to the Senator from Alaska that he tack his proposal in connection with the pipeline onto this bill, which has everything else in it.

Mr. STEVENS. Being aware of what the Senator said about germaneness in the House, I am chary about accepting the Senator's suggestion.

Mr. TOWER. The Senator from Texas was being facetious.

QUORUM CALL

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

The PRESIDING OFFICER. The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

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

MESSAGE FROM THE HOUSE

A message from the House of Representatives by Mr. Berry, one of its reading clerks, announced that the House had passed the bill (S. 394) to amend the Rural Electrification Act of 1936, as amended, to reaffirm that such funds made available for each fiscal year to carry out the programs provided for in such act be fully obligated in said year, and for other purposes, with amendments, in which it requested the concurrence of the Senate; that the House insisted upon its amendments to the bill; asked a conference with the Senate on the disagreeing votes of the two Houses thereon, and that Mr. POAGE, Mr. STUBBLEFIELD, Mr. SISK, Mr. DENHOLM, Mr. TEAGUE of California, Mr. WAMPLER, and Mr. GOODLING were appointed managers on the part of the House at the conference.

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow.

Mr. TOWER. Mr. President, reserving the right to object, in the absence of the minority leader——

Mr. MANSFIELD. We have checked with the distinguished minority leader.

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

Mr. MANSFIELD. The calendar is pretty clear. What we are really having tomorrow, unless some Members wish to speak, is something to approach a pro forma meeting.

ORDER FOR ADJOURNMENT FROM TOMORROW UNTIL TUESDAY, APRIL 10, 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow it stand in adjournment until 12 o'clock noon on Tuesday next.

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

AMENDMENT OF THE PAR VALUE MODIFICATION ACT

The Senate continued with the consideration of the bill (S. 929) to amend the Par Value Modification Act.

Mr. TOWER. Mr. President, I yield back my time unless someone else wishes to speak.

Mr. MANSFIELD. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. MANSFIELD. I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

The PRESIDING OFFICER. The hour of 2:30 p.m. having arrived, by previous order the Senate will proceed to vote on the amendment of the Senator from Virginia, as modified.

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 Michigan (Mr. HART), is necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

Mr. SCOTT of Pennsylvania. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD), and the Senator from Ohio (Mr. TAFT) are necessarily absent.

The Senator from Michigan (Mr. GRIFFIN) is detained on official business.

On this vote, the Senator from Oregon (Mr. HATFIELD) is paired with the Senator from Michigan (Mr. GRIFFIN). If present and voting, the Senator from Oregon would vote "yea" and the Senator from Michigan would vote "nay."

The result was announced—yeas 88, nays 3, as follows:

[No. 91 Leg.]

YEAS—88

Abourezk	Ervin	Mondale
Aiken	Fannin	Montoya
Allen	Fong	Moss
Baker	Fulbright	Muskie
Bartlett	Gravel	Nelson
Bayh	Gurney	Nunn
Beall	Hansen	Packwood
Bentsen	Hartke	Pastore
Bible	Haskell	Pearson
Biden	Hathaway	Pell
Brock	Helms	Percy
Buckley	Hollings	Proxmire
Burdick	Hruska	Randolph
Byrd, Harry F., Jr.	Huddleston	Ribicoff
	Hughes	Roth
Byrd, Robert C.	Humphrey	Saxbe
Cannon	Inouye	Schweiker
Case	Jackson	Scott, Pa.
Chiles	Javits	Scott, Va.
Church	Johnston	Sparkman
Clark	Kennedy	Stafford
Cook	Long	Stevenson
Cotton	Magnuson	Symington
Cranston	Mansfield	Talmadge
Curtis	Mathias	Thurmond
Dole	McClellan	Tunney
Domenici	McClure	Weicker
Dominick	McGovern	Williams
Eagleton	McIntyre	Young
Eastland	Metcalf	

NAYS—3

McGee	Stevens	Tower

NOT VOTING—9

Bellmon	Goldwater	Hatfield
Bennett	Griffin	Stennis
Brooke	Hart	Taft

So amendment No. 76, as modified, was agreed to.

The PRESIDING OFFICER (Mr. COTTON). The Senator from Wisconsin is recognized.

Mr. PROXMIRE. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report the amendment. The Senate

will be in order, first. The clerk may proceed.

The assistant legislative clerk read as follows:

Add the following new section:

SEC. 2. Section 2 of the Par Value Modification Act (Public Law 92-268) is amended by adding the following at the end thereof:

"In order to promote confidence in the stability of the par value of the dollar as defined in this section and to help prevent the need for a further change in such value, the President shall, under his existing authority, immediately issue an order stabilizing prices including retail prices, 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 April 5, 1973, for like or similar commodities, services, or transfers, or, if no transactions occurred during such period, then the highest applicable level in the nearest preceding thirty-day period. 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. The President may make such exceptions and variations to such order as may be necessary to prevent gross inequities and hardships."

Mr. PROXMIRE. Mr. President, how much time do I have under the amendment?

The PRESIDING OFFICER. The Senator from Wisconsin has 30 minutes.

Mr. PROXMIRE. Mr. President, I intend to take just part of the time on this amendment. I think that we can have a vote rather promptly.

Mr. President, I yield 1 minute to the Senator from Virginia without losing my right to the floor.

ADDITIONAL COSPONSORS OF AMENDMENT NO. 76

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the names of the distinguished Senator from New York (Mr. BUCKLEY) and the distinguished Senator from West Virginia (Mr. RANDOLPH) be listed as cosponsors of amendment No. 76.

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

ADDITIONAL COSPONSORS OF THE PROXMIRE AMENDMENT

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the names of the distinguished Senator from Washington (Mr. JACKSON) and the distinguished Senator from Illinois (Mr. STEVENSON) be added as cosponsors of my pending amendment.

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

WHOLESALE PRICES GO THROUGH THE ROOF

Mr. PROXMIRE. Mr. President, wholesale prices hit the ceiling in February. In March, they have just gone through the roof. That information just came to our attention at 10 o'clock this morning when the release came through.

We thought last month was bad. But the announcement today of the increases in wholesale prices for March can only be described as incredible, unbelievable, impossible. But, incredible or not, facts are facts. Here is what happened.

THE FACTS

The all commodity index went up on a seasonally adjusted basis by 2.2 percent from February to March.

When it rose by 1.6 percent last month, we found it hard to believe. But this month the increase is 37 percent greater than the month that broke all records. Translated into annual rates, this is a 26.4-percent rise.

Farm products, food, and feed led the list with a 4.7 percent advance. But it was not limited to those noncontrolled items at all. Industrial commodities increased by 1.2 percent in this 1 month, or at a 14.4 percent annual rate.

Mr. President, I would like to call attention to some of the enormous increases, which are not food increases, as I say. The increase, for example, in chemical and allied products was an increase at an annual rate, in the last 2 months, of approximately 8 percent.

The increase in rubber and plastic products was around 10 percent, in pulp and paper 18 percent, metals and metal products 25 percent.

The increase in durable goods was close 17 percent.

The increase in materials supplies and components was 19 percent.

These are all increases that can only be described as highly inflationary.

I think the Senate ought to recognize that wholesale prices have been far more stable than retail prices. Throughout the decades of the 50's and 60's, they proceeded on an extraordinarily stable basis, and on almost all occasions in recent years consumer prices have reflected far more than the increase in wholesale prices.

What happens is that they reflect the full increase in wholesale prices and, on top of that, the increase in retailing and distribution costs, which is very substantial, and has continued to rise substantially.

ANNUAL RATES GO THROUGH ROOF TOO

In recent weeks when we have translated these monthly rise into annual rates by merely multiplying by 12, the administration spokesmen have claimed this is unfair. But today they released some official annual and quarterly figures. Here is what they show.

In the calendar quarter that ended in March, the wholesale price index rose at a seasonally adjusted annual rate of 21.5 percent. That is according to the official U.S. Department of Labor's Bureau of Labor Statistics own release.

The quarterly figure for the annual rate for industrial commodities was 10.3 percent. The index for farm products, processed food and feed was at an annual rate of 53.1 percent in the January–March quarter.

Mr. President, these are astounding figures.

COMPARED WITH PAST FIGURES

These figures are shocking when compared with even the recent past decade. Between 1963 and 1964, the wholesale price index rose by only three-tenths of 1 percent—from an index number of 94.5 to 94.7. From 1966 to 1967, it rose from 100 to 102.5. From 1971 to 1972 it rose from 113.9 to 119.1 or by 5.2 points.

These later figures were thought to be big increases. But in the most recent quarter the figure for the annual rate is 21.5 percent, a terrific escalation, threefold the biggest increase we had had before.

Mr. HANSEN. Mr. President, will the Senator yield for a question?

Mr. PROXMIRE. I am happy to yield to the distinguished Senator from Wyoming.

Mr. HANSEN. Does the distinguished Senator have the figures with respect to milk, butter, and cheese?

Mr. PROXMIRE. I would be happy to get those figures. I do not have them available right now. Milk was very stable for a long time, but I have not seen the figure for March. I would not be surprised, however, if it increased somewhat. In view of the present policy of depressing the prices of substitute products, I would expect that the prices of such products would go up very sharply. That is one reason I think the spot controls system the administration has imposed just is not workable.

PRICES OF THE FUTURE

But the worst aspect of all of this is that the wholesale prices are the prices of the future. The wholesale prices today are the retail or consumer prices tomorrow. We therefore face a dismal future. In the words of the old song, "Baby, you ain't seen nothin' yet."

TIME TO ACT HAS COME

The time to act has arrived. Both Congress and the President must act. It is imperative that we slap on a price, wage, interest rate, rent, dividends, and profit freeze now. That is only the first step, but that must be done and done now.

I offer my amendment to do just that. And incidentally, if this amendment does not pass today, I intend to offer it at the first opportunity next week, and repeat offering it until it is accepted by the Senate, because, as I say, these wholesale prices are bound to snowball and be reflected in the consumer prices. It will get worse and worse. I think the time may come when the consumers will finally put enough pressure on Congress that all of us will recognize only an across-the-board freeze is an answer to the situation we face.

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

Mr. PROXMIRE. I am happy to yield to the Senator from Washington.

Mr. JACKSON. In view of the fact that the last vote on this amendment—which is similar, not exactly but substantially the same——

Mr. PROXMIRE. It is almost exactly the same amendment.

Mr. JACKSON. Lost by 39 to 37, I would hope the Senate will see fit to adopt the amendment this time. I do not think there is any need on my part to repeat once again that the obvious crisis facing the country is inflation.

If it were inflation alone, as bad as it is, because what I foresee is that we are moving down the road toward a recession. All one has to do is open the financial pages on any day in the week to see that interest rates are going up. I believe that short-term Treasury bills and

notes are now at the highest level since 1970. Three hundred and fifty-four day bills have been going at 6.5 percent.

My point is very simple: Not only is there a need to have the kind of freeze here that will provide, I hope, a basis under which the President can work out a hard, tough, effective phase III program, but it is essential if we are going to avoid what could be a boom and a bust; and the recession that would follow could be a serious one.

I commend the Senator from Wisconsin for having initiated this move about 3 weeks ago, and I had the privilege of offering it last week. I am delighted that he is offering it this week, and I think we ought to keep offering it, frankly, until we get some kind of price stability.

Mr. President, what I like about the proposal is that there are no exceptions. It is a real freeze across the board. I believe it is only in this way that we can lay the foundation for wage-price stability and overall economic stability, and I strongly join in supporting my colleague from Wisconsin in this endeavor.

Mr. PROXMIRE. Mr. President, I want especially to thank the Senator from Washington for his stress on interest rates, because the reason that interest rates have been rising is very clear to anyone who has followed interest rates in recent years.

Why do they rise? If you ask Dr. Arthur Burns, or other experts on monetary policy, they would tell you it is very largely because of inflationary expectation. If the lender expects, when he gets his money back, that it will have a lower value, he is going to demand a higher interest rate before he lends that money. Senators will find that in every country with sharp inflation, interest rates are high, and we find the justification by the monetary authorities for high interest rates, over and over again, is "Yes, because we have a high rate of inflation, that has to be reflected in the interest rates."

When you have a wholesale price rise such as we have had in the past few months, every lender is going to insist, before he lends his money out, that he will get at least as much back at the end of the term of his loan as he lent out. So if we are going to hold interest rates down, we need that freeze. If the lender can be assured that in the next 6 months he can have stable prices across the board, then the likelihood that interest rates will remain stable is enormously increased.

WEAK ACTION ON PHASE III

When the administration moved from phase II to phase III, what we needed was better and stronger action.

We needed prenotification by big unions and big businesses of their price increases. But that was not required.

We needed the rollback of prices which went beyond the guidelines. Instead, no rollback was called for. Those who went beyond the guidelines could keep their profits.

We needed stricter enforcement in those areas where the problems were. Instead, the enforcement staff was cut in half.

This was a signal to business, labor, and the national and international financial community that the administration was soft on inflation. And what happened?

The stock market hit the doldrums because the U.S. financial community correctly read the new policy.

The dollar was devalued for the second time, because the international financial community correctly read the new policy.

Businesses of all kinds raised their prices because they saw the writing on the wall and knew that their costs were rising too.

And labor abandoned the 5.5 percent wage increase guideline because they knew that such a standard would not even compensate their members for the rise in the cost of living, let alone give them their rightful share of productivity increases.

Mr. President, we can say that the time is not ready to act on some of these measures. Senators often argue that we should delay and wait and see what will happen. The fact is that we have now, because of the wholesale price index for March which is just available today, we now have the evidence we need to determine the policy we should follow. It makes sense to delegate greater authority to the President. I have disagreed sometimes on military policy and foreign policy, but much of that has to remain within the President's jurisdiction. But in this area of the domestic economy, it is peculiarly subject to congressional determination. Congress should have the sense of responsibility to stand up and do what it should do, especially when we see a program put into effect phase III that all the evidence shows overwhelmingly is not working.

I do not believe there is one economist in a hundred who would say that phase III is working or is doing the job. It is not doing the job. There are even fewer economists who would say that the policy of picking out beef, pork, and lamb, and freezing that at the retail and wholesale level and letting everything else go up, including costs to the farmers who produce the beef, the pork, and the lamb, and including the cost to the wholesalers, the processors, and the retailers, would work. That kind of program simply cannot work. Economists agree overwhelmingly on that, whether conservative or liberal—regardless of their persuasion.

TIME TO ACT

So, Mr. President, I say to the President of the United States and the administration, "It is time to act. If you do not act, Mr. President, we will act." I intend to press my amendment for a freeze at every possible opportunity until it becomes the policy of this Government, either through action by the President or by action by the Congress.

The future of our country is at stake. The lives, incomes, and well-being of the American people are in the balance.

Act, Mr. President. The time is now.

One other word before I yield the floor. I know the leadership may feel that this amendment is not germane. However, I can think of very few other amendments that would be more germane than this one, because if we are going to have a devaluation that will stick, we have to get on top of inflation, we must show that we mean business with inflation. Certainly, all the evidence suggests that one of the major reasons why we have to have this devaluation that we are acting on now is that phase III is too weak.

So the amendment is germane to the subject matter. It is germane to the substance. It does make sense. I urge Senators SPARKMAN and TOWER to permit this amendment to come to a vote on its merits. I know that both Senators have opposed this in the past, but I hope that under the circumstances, in view of the latest information, we would have a chance to vote up or down whether the Senate wants to take this position now.

I yield the floor and reserve the remainder of my time.

The PRESIDING OFFICER (Mr. COTTON). Who yields time?

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

The PRESIDING OFFICER. Does the Senator from Wisconsin yield back his time?

Mr. PROXMIRE. I would hope to get the yeas and nays on my amendment. I, therefore, ask unanimous consent that I may suggest the absence of a quorum, with the time to come out of my time.

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

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. TOWER. Is it too late to raise a point of order once the yeas and nays have been ordered?

The PRESIDING OFFICER (Mr. COTTON). It has no effect under the unanimous-consent agreement. A point of order could be placed after the time is yielded back, but the order for the yeas and nays would not preclude it.

Mr. TOWER. I thank the Presiding Officer.

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

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. 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 on my amendment.

The yeas and nays were ordered.

Mr. PROXMIRE. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Delaware (Mr. BIDEN) be added as a cosponsor of my amendment.

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

Mr. TOWER. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Texas will state it.

Mr. TOWER. How much time is left to

the distinguished Senator from Wisconsin?

The PRESIDING OFFICER. Eleven minutes remain to the time of the Senator from Wisconsin.

Mr. PROXMIRE. Mr. President, I understand that the distinguished Senator from Alabama has yielded back his time on the amendment; is that correct?

The PRESIDING OFFICER. The Senator from Alabama has yielded back his time.

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

The PRESIDING OFFICER. All time on the amendment is now yielded back.

Mr. TOWER. Mr. President, in the opinion of the Senator from Texas, a point of order should lie against the amendment of the Senator from Wisconsin, that the matter contained in the Senator's amendment is not covered by the authorization of the unanimous-consent agreement and is not, therefore, germane.

I make the point of order that the amendment of the Senator from Wisconsin is out of order.

The PRESIDING OFFICER (Mr. COTTON). Under the unanimous-consent agreement, all amendments not excepted must be germane. There is nothing in the bill relative to a price freeze or an order by the President to stabilize prices, including retail prices, rents, wages, salaries, interest rates, and so forth.

This amendment does not meet any of the exceptions set forth in the agreement; for example, it was not printed and at the desk when the agreement was reached.

Therefore, the Chair would rule that the amendment offered by the Senator from Wisconsin is not in order.

Mr. PROXMIRE. Mr. President, may I be heard on that ruling?

The PRESIDING OFFICER. Certainly.

Mr. PROXMIRE. How much time is allowed for debate on the ruling?

The PRESIDING OFFICER. If the Senator appeals from the ruling of the Chair, 30 minutes. Otherwise, it is just a matter of a few minutes, by courtesy of the Chair. The Chair would be glad to listen for a reasonable time, if the Senator desires to appeal from the ruling.

Mr. PROXMIRE. I thank the Chair. I appeal the ruling of the Chair, and I am going to ask for a rollcall on the appeal in a few minutes.

However, before I ask for the rollcall vote, before we proceed to a vote on it, I want to say that I have great respect for the Chair. I think he is a man who understand parliamentary procedure, and I understand the basis on which he has his ruling.

However, Mr. President, I think it should be very obvious to us that if there is any kind of amendment that should be germane to the devaluation bill, it is an amendment that would provide the strongest kind of anti-inflationary medicine that can be provided. This is exactly what the amendment that is pending at the desk would do.

We all know that a freeze on wages and prices was put into effect at the beginning of the new economic policy for 3 months. It worked. It is not a matter of guessing whether it would work. It did work.

I think we all recognize that if any kind of action by Congress is going to stop inflation, this will do it. Is inflation, is the rise in prices, germane to a devaluation bill? Why was the dollar devalued? The dollar was devalued, because in the international market, the value of the dollar dropped. Why? All the evidence indicated—all the economists argued—that it was because of the weakening, inflationary posture of the United States—phase 3, the terrific increase in wholesale prices in December, the accumulating increase in wholesale prices in January. Now we have the worst evidence of all—the wholesale price increase of March, which dwarfs the other increases.

Under these circumstances, as I say, with all due respect to the Presiding Officer and the Parliamentarian, it seems to me that there should be a recognition on the part of the Senate that this amendment to freeze prices, wages, interest rates, profits, rents, and so forth, is germane.

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

Mr. PROXMIRE. I yield.

Mr. ALLEN. I say to the distinguished Senator from Wisconsin that I supported the amendment offered by the Senator from Washington (Mr. JACKSON) and had planned to support the amendment offered by the distinguished Senator from Wisconsin, but I cannot support his appeal from the ruling of the Chair.

I would hope that at the end of the 30 minutes allotted for that purpose, the Senator would withdraw his appeal, for the reason that I do not believe that the appeal will muster the support that a vote up and down on the amendment would offer. I believe it would put the Senator at a disadvantage.

The PRESIDING OFFICER. Who yields time?

Mr. SPARKMAN. Mr. President, I shall take very little time.

I sympathize with the position of the Senator from Wisconsin because of a similar situation on an amendment that I knew was good, but this rule of germaneness was in the unanimous consent agreement, and all I could do was to sit down, because I knew the Chair had made a correct ruling, even though it went against my desire and my understanding. I do not see how anyone can question the correctness of this ruling, under the rule of germaneness.

There is another aspect to the matter. We have voted on this amendment in different forms, perhaps some of them with a different time limit, some of them with different coverage; but, generally speaking, we have threshed out this subject as amendments at a time they could be decided upon, at a time they could be voted upon, and the Senate has declined to accept any one of them.

It is true that, as the Senator from Wisconsin has stated, one of them failed by a very narrow margin—two or three votes; nevertheless, the Senate acted upon them. I would certainly join in the hope expressed by the Senator from Alabama that the Senator from Wisconsin would withdraw his appeal from the ruling of the Chair, because I simply do not see how it could be agreed to under the rules of the Senate and under the unanimous-consent agreement that was entered into.

Mr. PROXMIRE. Mr. President, I can save the Senator some time. I must say that Alabama is very persuasive. When both Senators from Alabama agree on something of this kind—and I have talked with some of my other Senate colleagues, whose judgment I highly respect—they support me, as does the junior Senator from Alabama on the substance of the amendment—and when the distinguished Parliamentarian and the distinguished Presiding Officer rule as they have, under the circumstances, rather than to jeopardize the amendment, which I think is a practical and an inevitable amendment, I will withdraw my appeal. But let me say that I intend to attach the amendment to subsequent legislation.

I thank the Chair for his ruling. I withdraw my appeal.

The PRESIDING OFFICER. The bill is open to further amendment.

Mr. TOWER. Mr. President, I have at the desk an unprinted amendment. I ask that it be stated.

The PRESIDING OFFICER. The amendment will be stated.

The legislative clerk read as follows:

On page 1, strike lines 3 through 8.

Mr. TOWER. Mr. President, this is a very simple amendment. I will read the language that is to be stricken:

That the first sentence of section 2 of the Par Value Modification Act (Public Law 92-268) is amended by striking the words "one thirty-eighth of a fine troy ounce of gold" and inserting in lieu thereof the following: "0.828948 Special Drawing Right or, the equivalent in terms of gold, of $1 equals 0.023684 of a fine troy ounce of gold".

This is a provision in the bill that is of increasingly diminishing significance. So much has been added into the bill that the original purpose of the bill has been lost sight of. I believe that the original provision of the bill, which my amendment would strike, is no longer very germane to the other things in the bill. It simply has a cosmetic effect anyway, and what the President has done will stand regardless of whether the proposed legislation is passed.

The committee considered the amendment with dispatch and reported it as a clean bill, in order to demonstrate that Congress did support the President in the matter of the revaluation of gold, to try to resolve in the interim period the monetary crisis, the trade balance situation, and all the ancillary difficulties in terms of our international exchange.

I think that we have demonstrated practically to the central bankers in Europe that we considered this to be of relative unimportance; that we treated it cavalierly; that we held up the bill to add other things to it; and, therefore, have given them no impression that it is of great importance.

I should prefer to have it considered as a separate matter that Congress does regard as of some importance. I shall

offer it at some other time. Therefore, I feel constrained to offer this amendment.

Mr. President, I do not believe a sufficient number of Senators is present to ask for the yeas and nays; therefore, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

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

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

Mr. TOWER. Mr. President, I have decided I will not press this matter to a rollcall vote.

Mr. SPARKMAN. Mr. President, as I understand it, the Senator from Texas has simply ruled out the proposed request for a rollcall and still would have a voice vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. SPARKMAN. I would like to exercise my right to debate the amendment before that is done. I am in opposition to the amendment.

The PRESIDING OFFICER. How much time does the Senator yield to himself?

Mr. SPARKMAN. How much time do I have?

The PRESIDING OFFICER. The Senator has 30 minutes.

Mr. SPARKMAN. I yield myself 2 minutes.

The PRESIDING OFFICER. The Senator from Alabama is recognized.

Mr. SPARKMAN. Mr. President, I, of course, have a great deal of sympathy with some of the things which the distinguished Senator from Texas has said. But I have always recognized the fact that legislation, at its best, or sometimes at its worst, is a compromise—the best you can work out is compromise.

Amendments have been agreed to that I oppose, amendments that did not have any place in this bill. I was for the bill as a clean bill. Nevertheless, the Senate has expressed its will in adding these amendments, and I think we ought to pass the bill with these amendments included and take it to conference.

We do not know what we may be able to accomplish in conference.

Therefore, I hope the amendment is withdrawn.

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

Mr. SPARKMAN. I yield.

Mr. TOWER. I offered this amendment to make a point.

Mr. SPARKMAN. I realize that.

Mr. TOWER. I think the Senator from Alabama also made an important point and that is to take it to conference and see what happens. I am reasonably sure the House is not going to accept what we have done, because of their rigid adherence to the rule of germanity, or germaneness—perhaps it is germanity. In any case, I am hopeful the House will assume a firm position on this to the extent we do not have omnibus legislation of this type that is anchored to little, if anything.

Therefore, because of the lucidity of the arguments of my friend from Alabama and, because I understand his reason, I withdraw the amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. SPARKMAN. I congratulate the Senator.

Mr. PROXMIRE. Mr. President, will the Senator yield to me for 2 minutes on the bill?

Mr. SPARKMAN. Do I have time remaining?

The PRESIDING OFFICER. The Senator has time remaining on the bill.

Mr. SPARKMAN. I yield 2 minutes on the bill.

Mr. PROXMIRE. Mr. President, I wish to add my voice to that of the Senator from Alabama in commending the Senator for withdrawing the amendment. The amendment would strike the original bill and would leave the ceiling and the Ervin impoundment measure we passed yesterday, making it very vulnerable to a veto. The purpose of the amendment, if passed, would mean the President could veto the bill, and that is it. We should recognize the Senate did not just pass the Ervin amendment on impoundment, but did so overwhelmingly by a vote of 70 to 24 and by a vote of 88 to 6 in the case of the ceiling.

I hope and pray that the Senate conferees will recognize we have given the clearest mandate to stand firm for both the impoundment provision and the ceiling provision when we go to conference.

I thank the Senator from Alabama.

Mr. TOWER. Mr. President, I yield myself 3 minutes on the bill.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. TOWER. I think that it is very possible that we have perhaps included some veto bait in this bill. The whole idea in attaching all these measures to the gold revaluation or par value modification act was to try to force the President to accept legislation that it was thought he would not otherwise accept. Let us be candid. That was the whole purpose. The Senator from Wisconsin said as much in his remarks the other day; that the President needed this and had to have it and would not veto it; therefore, we put all these matters on it.

I hope the bill is improved somewhat in conference. I have no idea what the House may do. I hear they may consolidate this with the Economic Stabilization Act. That would be a can of worms that the President might feel constrained to veto. As I say, I have no word from the White House that that is the case. But I think the more extraneous matter we include, the more it might be added in consolidation with the other bill in the House, and the likelihood is that the President would feel compelled to veto it as being too restrictive and inflexible enough to deal with the economic contingencies of the country.

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

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

Mr. HARRY F. BYRD, JR. Mr. President, will the Senator yield to me for 1 minute?

Mr. SPARKMAN. I yield 1 minute to the Senator from Virginia.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the names of the distinguished Senator from North Carolina (Mr. HELMS) and the distinguished Senator from New Mexico (Mr. DOMENICI) be added as cosponsors of amendment No. 76.

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

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the name of the distinguished Senator from Florida (Mr. CHILES) be added as a cosponsor of amendment No. 76.

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

Mr. SPARKMAN. I yield back all my time.

Mr. TOWER. I yield back my time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall it pass? On this question the yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Michigan (Mr. HART), and the Senator from Louisiana (Mr. LONG) are necessarily absent.

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 Michigan (Mr. HART) would vote "yea."

Mr. GRIFFIN. I announce that the Senator from Massachusetts (Mr. BROOKE) is absent by leave of the Senate on official business.

The Senator from Oklahoma (Mr. BELLMON), the Senator from Utah (Mr. BENNETT), the Senator from Kansas (Mr. DOLE), the Senator from Arizona (Mr. GOLDWATER), the Senator from Oregon (Mr. HATFIELD) and the Senator from Ohio (Mr. TAFT) are necessarily absent.

If present and voting, the Senator from Oregon (Mr. HATFIELD) and the Senator from Ohio (Mr. TAFT) would each vote "yea."

The result was announced—yeas 79, nays 11, as follows:

[No. 92 Leg.]

YEAS—79

Abourezk	Fong	Mondale
Aiken	Fulbright	Montoya
Allen	Gravel	Moss
Baker	Gurney	Muskie
Bartlett	Hartke	Nelson
Bayh	Haskell	Nunn
Beall	Hathaway	Packwood
Bentsen	Helms	Pastore
Bible	Hollings	Pearson
Biden	Hruska	Pell
Buckley	Huddleston	Percy
Burdick	Hughes	Proxmire
Byrd, Harry F., Jr.	Humphrey	Randolph
Byrd, Robert C.	Inouye	Ribicoff
Cannon	Jackson	Schweiker
Case	Javits	Scott, Pa.
Chiles	Johnston	Scott, Va.
Church	Kennedy	Sparkman
Clark	Magnuson	Stafford
Cranston	Mansfield	Stevens
Curtis	Mathias	Stevenson
Domenici	McClellan	Symington
Dominick	McClure	Talmadge
Eagleton	McGee	Tunney
Eastland	McGovern	Williams
Ervin	McIntyre	Young
	Metcalf	

NAYS—11

Brock	Griffin	Thurmond
Cook	Hansen	Tower
Cotton	Roth	Weicker
Fannin	Saxbe	

NOT VOTING—10

Bellmon	Goldwater	Stennis
Bennett	Hart	Taft
Brooke	Hatfield	
Dole	Long	

S. 929

An act to amend the Par Value Modification Act, to insure the separation of Federal powers and to protect the legislative function by requiring the President to notify the Congress whenever he, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States, impounds, orders the impounding, or permits the impounding of budget authority, to provide a procedure under which the Senate and the House of Representatives may approve the impounding action, in whole or in part, or require the President, the Director of the Office of Management and Budget, the department or agency of the United States, or the officer or employee of the United States, to cease such action, in whole or in part, as directed by Congress, and to establish a spending ceiling for one fiscal year 1974.

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 2 of the Par Value Modification Act (Public Law 92-268) is amended by striking the words "one thirty-eighth of a fine troy ounce of gold" and inserting in lieu thereof the following: "0.828948 Special Drawing Right or, the equivalent in terms of gold, of $1 equals 0.023684 of a fine troy ounce of gold".

TITLE I—IMPOUNDMENT CONTROL PROCEDURES

SEC. 101. The Congress finds that—

(1) the Congress has the sole authority to enact legislation and appropriate moneys on behalf of the United States;

(2) the Congress has the authority to make all laws necessary and proper for carrying into execution its own powers;

(3) the Executive shall take care that the laws enacted by Congress shall be faithfully executed;

(4) under the Constitution of the United States, the Congress has the authority to require that funds appropriated and obligated by law shall be spent in accordance with such law;

(5) there is no authority expressed or implied under the Constitution of the United States for the Executive to impound budget authority and the only authority for such impoundments by the executive branch is that which Congress has expressly delegated by statute;

(6) by the Anti-Deficiency Act (Rev. Stat. sec. 3679), the Congress delegated to the President authority, in a narrowly defined area, to establish reserves for contingencies or to effect savings through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which appropriations are made available;

(7) in spite of the lack of constitutional authority for impoundment of budget authority by the executive branch and the narrow area in which reserves by the executive branch have been expressly authorized in the Anti-Deficiency Act, the executive branch has impounded many billions of dollars of budget authority in a manner contrary to and not authorized by the Anti-Deficiency Act or any other Act of Congress;

(8) impoundments by the executive branch have often been made without a legal basis;

(9) such impoundments have totally nullified the effect of appropriations and obligation authority enacted by the Congress and prevented the Congress from exercising its constitutional authority;

(10) the executive branch, through its presentation to the Congress of a proposed budget, the due respect of the Congress for the views of the executive branch, and the power of the veto, has ample authority to affect the appropriation and obligation process without the unilateral authority to impound budget authority; and

(11) enactment of this legislation is necessary to clarify the limits of the existing legal authority of the executive branch to impound budget authority, to reestablish a proper allocation of authority between the Congress and the executive branch, to confirm the constitutional proscription against the unilateral nullification by the executive branch of duly enacted authorization and appropriation Acts, and to establish efficient and orderly procedures for the reordering of budget authority through joint action by the Executive and the Congress, which shall apply to all impoundments of budget authority, regardless of the legal authority asserted for making such impoundments.

SEC. 102. (a) Whenever the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States, impounds any budget authority made available, or orders, permits, or approves the impounding of any such budget authority by any other officer or employee of the United States, the President shall, within ten days thereafter, transmit to the Senate and the House of Representatives a special message specifying—

(1) the amount of the budget authority impounded;

(2) the date on which the budget authority was ordered to be impounded;

(3) the date the budget authority was impounded;

(4) any account, department, or establishment of the Government to which such impounded budget authority would have been available for obligation except for such impoundment;

(5) the period of time during which the budget authority is to be impounded, to include not only the legal lapsing of budget authority but also administrative decisions to discontinue or curtail a program;

(6) the reasons for the impoundment, including any legal authority invoked by him to justify the impoundment and, when the justification invoked is a requirement to avoid violating any public law which establishes a debt ceiling or a spending ceiling, the amount by which the ceiling would be exceeded and the reasons for such anticipated excess; and

(7) to the maximum extent practicable, the estimated fiscal, economic, and budgetary effect of the impoundment.

(b) Each special message submitted pursuant to subsection (a) shall be transmitted to the House of Representatives and the Senate on the same day, and shall be delivered to the Clerk of the House of Representatives if the House is not in session, and to the Secretary of the Senate if the Senate is not in session. Each such message may be printed by either House as a document for both Houses as the President of the Senate, and Speaker of the House may determine.

(c) A copy of each special message submitted pursuant to subsection (a) shall be transmitted to the Comptroller General of the United States on the same day as it is transmitted to the Senate and the House of Representatives. The Comptroller General shall review each such message and determine whether, in his judgment, the impoundment was in accordance with existing statutory authority, following which he shall notify both Houses of Congress within fifteen days after the receipt of the message as to his determination thereon. If the Comptroller General determines that the impoundment was in accordance with section 3679 of the Revised Statutes (31 U.S.C. 665), commonly referred to as "The Anti-Deficiency Act", the provisions of section 103 and section 105 shall not apply. In all other cases, the Comptroller General shall advise the Congress whether the impoundment was in accordance with other existing statutory authority and sections 103 and 105 of this Act shall apply.

(d) If any information contained in a special message submitted pursuant to subsection (a) is subsequently revised, the President shall transmit within ten days to the Congress and the Comptroller General a supplementary message stating and explaining each such revision.

(e) Any special or supplementary message transmitted pursuant to this section shall be printed in the first issue of the Federal Register published after that special or supplemental message is so transmitted and may be printed by either House as a document for both Houses, as the President of the Senate, and Speaker of the House may determine.

(f) The President shall publish in the Federal Register each month a list of any budget authority impounded as of the first calendar day of that month. Each list shall be published no later than the tenth calender day of the month and shall contain the information required to be submitted by special message pursuant to subsection (a).

SEC. 103. The President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States shall cease the impounding of any budget authority set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by passage of a concurrent resolution in accordance with the procedure set out in section 105 of this Act: *Provided, however,* That Congress may by concurrent resolution disapprove any impoundment in whole or in part, at any time prior to the expiration of the sixty-day period, and in the event of such disapproval, the impoundment shall cease immediately to the extent disapproved. The effect of such disapproval, whether by concurrent resolution passed prior to the expiration of the sixty-day period or by the failure to approve by concurrent resolution within the sixty-day period, shall be to make the obligation of the budget authority mandatory, and shall preclude the President or any other Federal officer or employee from reimpounding the specific budget authority set forth in the special message which the Congress by its action or failure to act has thereby rejected.

SEC. 104. For purposes of this Act, the impounding of budget authority includes—

(1) withholding, delaying, deferring, freezing, or otherwise refusing to expend any part of budget authority made available (whether by establishing reserves or otherwise) and the termination or cancellation of authorized projects or activities to the extent that budget authority has been made available,

(2) withholding, delaying, deferring, freezing, or otherwise refusing to make any allocation of any part of budget authority (where such allocation is required in order to permit the budget authority to be expended or obligated),

(3) withholding, delaying, deferring, or otherwise refusing to permit a grantee to obligate any part of budget authority (whether by establishing contract controls, reserves, or otherwise), and

(4) any type of Executive action or inaction which effectively precludes or delays the obligation or expenditure of any part of authorized budget authority.

SEC. 105. The following subsections of this section are enacted by the Congress:

(a) (1) As an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such they shall be deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of resolutions described by this section; and they shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) With full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of the House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

(b) (1) For purposes of this section, the term "resolution" means only a concurrent resolution of the Senate or House of Representatives, as the case may be, which is introduced and acted upon by both Houses at any time before the end of the first period of sixty calendar days of continuous session of the Congress after the date on which the special message of the President is transmitted to the two Houses.

(2) The matter after the resolving clause of a resolution approving the impounding of budget authority shall be substantially as follows (the blank spaces being appropriately filled): "That the Congress approves the impounding of budget authority as set forth in the special message of the President dated ————, Senate (House) Document Numbered ————."

(3) The matter after the resolving clause of a resolution disapproving, in whole or in part, the impounding of budget authority shall be substantially as follows (the blank spaces being appropriately filled): "That the Congress disapproves the impounding of budget authority as set forth in the special message of the President dated ———— ————, Senate (House) Document Numbered ———— (in the amount of $————)."

(4) For purposes of this subsection, the continuity of a session is broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain shall be excluded in the computation of the sixty-day period.

(c) (1) A resolution introduced, or received from the other House, with respect to a special message shall not be referred to a committee and shall be privileged business for immediate consideration, following the receipt of the report of the Comptroller General referred to in section 102(c). It shall at any time be in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. Such motion shall be highly privileged and not debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion is agreeing to or disagreed to.

(2) If the motion to proceed to the consideration of a resolution is agreed to, debate on the resolution shall be limited to ten hours, which shall be divided equally between those favoring and those opposing the resolution. Debate on any amendment to the resolution (including an amendment substituting approval for disapproval in whole or in part or substituting disapproval in whole or in part for approval) shall be limited to two hours, which shall be divided equally between those favoring and those opposing the amendment.

(3) Motions to postpone, made with respect to the consideration of a resolution, and motions to proceed to the consideration of other business, shall be decided without debate.

(4) Appeals from the decision of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution shall be decided without debate.

(d) If, prior to the passage by one House of a resolution of that House with respect to a special message, such House receives from the other House a resolution with respect to the same message, then—

(1) If no resolution of the first House with respect to such message has been introduced, no motion to proceed to the consideration of any other resolution with respect to the same message may be made (despite the provisions of subsection (c) (1)).

(2) If a resolution of the first House with respect to such message has been introduced—

(A) the procedure with respect to that or other resolutions of such House with respect to such message shall be the same as if no resolution from the other House with respect to such message had been received; but

(B) on any vote on final passage of a resolution of the first House with respect to such message the resolution from the other House with respect to such message shall be automatically substituted for the resolution of the first House.

(e) If a committee of conference is appointed on the disagreeing votes of the two Houses with respect to a resolution, the conference report submitted in each House shall be considered under the rules set forth in subsection (c) for the consideration of a resolution, except that no amendment shall be in order.

(f) Notwithstanding any other provision of this section, it shall not be in order in either House to consider a resolution with respect to a special message after the two Houses have agreed to another resolution with respect to the same message.

(g) As used in this section, the term "special message" means a report of impounding action made by the President pursuant to section 102 or by the Comptroller General pursuant to section 106.

SEC. 106. If the President, the Director of the Office of Management and Budget, the head of any department or agency of the United States, or any officer or employee of the United States takes or approves any impounding action within the purview of this Act, and the President fails to report such impounding action to the Congress as required by this Act, the Comptroller General shall report such impounding action with any available information concerning it to both Houses of Congress, and the provisions of this Act shall apply to such impounding action in like manner and with the same effect as if the report of the Comptroller General had been made by the President: *Provided, however,* That the sixty-day period provided in section 103 of this Act shall be deemed to have commenced at the time at which, in the determination of the Comptroller General, the impoundment action was taken.

SEC. 107. Nothing contained in this Act shall be interpreted by any person or court as constituting a ratification or approval of any impounding of budget authority by the President or any other Federal employee, in the past or in the future, unless done pursuant to statutory authority in effect at the time of such impoundment.

SEC. 108. The Comptroller General is hereby expressly empowered as the representative of the Congress through attorneys of his own selection to sue any department, agency, officer, or employee of the United States in a civil action in the United States District Court for the District of Columbia to enforce the provisions of this Act, and such court is hereby expressly empowered to enter in such civil action any decree, judgment, or order which may be necessary or appropriate to secure compliance with the provisions of this Act by such department, agency, officer, or employee. Within the purview of this section, the Office of Management and Budget shall be construed to be an agency of the United States, and the officers and employees of the Office of Management and Budget shall be construed to be officers or employees of the United States.

SEC. 109 (a) Notwithstanding any other provision of law all funds appropriated by law shall be made available and obligated by the appropriate agencies, departments, and other units of the Government as may be provided otherwise under this Act.

(b) Should the President desire to impound any appropriation made by the Congress not authorized by this Act or by the Anti-Deficiency Act, he shall seek legislation utilizing the supplemental appropriations process to obtain selective recision of such appropriation by the Congress.

SEC. 110. If any provision of this Act, or the application thereof to any person, impoundment, or circumstance, is held invalid, the validity of the remainder of the Act and the application of such provision to other persons, impoundments, or circumstances shall not be affected thereby.

SEC. 111. The provisions of this Act shall take effect from and after enactment.

TITLE II—CEILING ON FISCAL YEAR 1974 EXPENDITURES

SEC. 201. (a) Except as provided in subsection (b), expenditures and net lending during the fiscal year ending June 30, 1974, under the Budget of the United States Government shall not exceed $268,000,000,000. In subsequent years, after the submission of the Budget of the United States Government and after considering the recommendation of the President for each fiscal year (beginning with the fiscal year ending June 30, 1975), the Congress shall, by law, prescribe a limit on the total amount of expenditures to be made by the United States Government during such fiscal year.

(b) If the estimates of revenues which will be received in the Treasury during the fiscal year ending June 30, 1974, as made from time to time, are increased as a result of legislation enacted after the date of the enactment of this Act reforming the Federal tax laws, the limitation specified in subsection (a) shall be reviewed by Congress for purpose of determining whether the additional revenues made available should be applied to essential public services for which adequate funding would not otherwise be provided.

SEC. 202. (a) Notwithstanding the provisions of any other law, the President shall, in accordance with this section, reserve from expenditure and net lending, from appropriations or other obligational authority otherwise made available, such amounts as may be necessary to keep expenditures and net lending during the fiscal year ending June 30, 1974, and subsequent fiscal years, within the limitation specified in section 201.

(b) In carrying out the provisions of subsection (a) the President shall reserve amounts proportionately from new obligational authority and other obligational authority available for each functional category, and to the extent practicable, subfunctional category (as set out in the United States Budget in Brief, except that no

reservations shall be made from amounts available for interest, veterans' benefits and services, payments from social insurance trust funds, public assistance maintenance grants under title IV of the Social Security Act, food stamps, military retirement pay, medicaid, and judicial salaries.

(c) Reservations made to carry out the provisions of subsection (a) shall be subject to the provisions of title I of this Act, except that—

(1) if the Comptroller General determines under section 102(c) with respect to any such reservation that the requirements of proportionate reservations of subsection (b) have been complied with, then sections 103 and 105 shall not apply to such reservation.

(d) The provisions of section 103 of title I of this Act shall not apply to any impoundments or reservations made under title II insofar as they prohibit reimpounding or reservation.

(e) In no event shall the authority conferred by this section be used to impound funds, appropriated or otherwise made available by Congress, for the purpose of eliminating a program the creation or continuation of which has been authorized by Congress.

SEC. 203. In the administration of any program as to which—

(1) the amount of expenditures is limited pursuant to this title, and

(2) the allocation, grant, apportionment, or other distribution of funds among recipients is required to be determined by application of a formula involving the amount appropriated or otherwise made available for distribution, the amount available for expenditure (after the application of this title) shall be substituted for the amount appropriated or otherwise made available in the application of the formula.

TITLE III—FOREIGN CURRENCY REPORTS

STATEMENT OF FINDINGS

SEC. 301. The Congress finds that—

(1) the stability of the international monetary system is threatened by the existence of substantial sums of short-term liquid assets at the disposal of large United States business enterprises and their foreign affiliates;

(2) only a small percentage of United States business enterprises need to engage in speculative foreign exchange transactions in order to trigger an international financial crisis;

(3) the Government of the United States does not receive adequate and timely information on foreign exchange transactions conducted by large United States business enterprises and their foreign affiliates; and

(4) periodic and timely reports on foreign exchange transactions on the part of large United States business enterprises and their foreign affiliates would be useful in deterring the possibility of speculative exchange transactions and in providing the Government of the United States with information needed to deal with international financial crises.

AUTHORITY TO PRESCRIBE REGULATIONS

SEC. 302. (a) The Secretary of the Treasury (hereafter referred to as the "Secretary") is authorized and directed, under the authority of this title and any other authority conferred by law, to prescribe regulations requiring the submission of reports on foreign currency transactions consistent with the statement of findings under section 301. Regulations prescribed under this title shall require that such reports contain such information and be submitted in such manner and at such times, with reasonable exceptions and classifications, as may be necessary to carry out the policy of this title.

(b) Reports required under this title shall cover foreign currency transactions conducted by any United States person and by any foreign person controlled by a United States person as such terms are defined in sections 7(f)(2)(A) and 7(f)(2)(C) of the Securities Exchange Act of 1934.

ENFORCEMENT

SEC. 303. (a) Whoever fails to submit a report required under any rule or regulation issued under this title may be assessed a civil penalty not exceeding $10,000 in a proceeding brought under subsection (b) of this section.

(b) Whenever it appears to the Secretary that any person has failed to submit a report required under any rule or regulation issued under this title or has violated any rule or regulation issued hereunder, the Secretary may in his discretion bring an action, in the proper district court of the United States or the proper United States court of any territory or other place subject to the jurisdiction of the United States, seeking a mandatory injunction commanding such person to comply with such rule or regulation, and upon a proper showing a permanent or temporary injunction or restraining order shall be granted without bond, and additionally the sanction provided for failure to submit a report under subsection (a).

EFFECT ON OTHER LAWS

SEC. 304. Nothing in this title may be construed to alter or affect in any way the authority of the Secretary under any other provision of law.

TITLE IV—REPEAL OF LAWS PROHIBITING THE PURCHASE OF GOLD

SEC. 401. Sections 3 and 4 of the Gold Reserve Act of 1934 (31 U.S.C. 442 and 443) are repealed.

SEC. 402. No provision of any law, and no rule, regulation, or order under authority of any such law, may be construed to prohibit any person from purchasing, holding, selling, or otherwise dealing with gold.

SEC. 403. The provisions of this title, pertaining to gold, shall take effect December 31, 1973.

TITLE V—PROHIBITION OF ASSISTANCE TO NORTH VIETNAM

SEC. 501. No funds made available by the Congress to any department or agency of the Government may be obligated or expended for the purpose of providing assistance of any kind, directly or indirectly, to or on behalf of North Vietnam, unless specifically authorized hereafter by the Congress.

Mr. MANSFIELD. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. TOWER. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AUTHORIZATION FOR THE SECRETARY OF THE SENATE TO MAKE TECHNICAL AND CLERICAL CORRECTIONS IN THE ENGROSSMENT OF S. 929

Mr. TOWER. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make such technical and clerical corrections as necessary in the engrossment of S. 929.

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

URBAN COALITION PROPOSES ALTERNATIVE BUDGET

Mr. PROXMIRE. Mr. President, in the annual hearings on the President's Economic Report conducted by the Joint Economic Committee, I asked Mr. Sol M. Linowitz, chairman of the National Urban Coalition, if he could prepare an alternative budget similar to the counter-budget developed by his organization 2 years ago.

The Urban Coalition's alternative budget for fiscal year 1974 has now been issued and I request unanimous consent to introduce portions of it in today's RECORD in order to bring this most useful document to the attention of all Members of Congress.

The Urban Coalition proposes significant changes in national priorities insofar as they are influenced by the Federal budget, within the President's proposed ceiling of $268.7 billion. As the table shows, the Urban Coalition proposes a $5.1 billion reduction in outlays for defense for fiscal year 1974 and a $1 billion reduction in general revenue sharing. These savings would be used for increased social spending for antipoverty programs, housing, education, manpower, health, and income security, and for a somewhat larger veterans program.

Many persons, including myself, would not agree with all of the Urban Coalition's assumptions and conclusions about how Federal resources are to be allocated. But the Urban Coalition did two things which every reasonable person ought to recognize as significant contributions to improved public-policy decision.

First, the Urban Coalition accepted the challenge of establishing a ceiling on Government spending and allocating funds among competing programs. A lot of organizations—and a lot of Members of Congress—have only given lipservice to the need to limit Federal spending while shying away from the difficult task of deciding which activities and programs need to be cut back. We can never limit Federal spending if we refuse to reduce some programs and prevent others from growing. The Urban Coalition deserves our highest respect and admiration for facing up to this issue.

Second, the Urban Coalition clearly states its rationale for reordering priorities and discusses the individual program changes it proposes in great detail. Again, all of us may not agree totally with the propositions and arguments set forth. But we can all commend and thank Mr. Linowitz and the Urban Coalition for one of the most thoughtful, timely, and well-reasoned analyses of the budget that I have seen.

The Subcommittee on Priorities and Economy in Government, which I chair, plans to invite Mr. Linowitz to appear before it during our annual hearings on national priorities which we expect to begin later this month. At that time we hope to develop a comprehensive dialog with Mr. Linowitz and other experts of the budgetary and economic issues facing Congress this year.

Mr. President, I ask unanimous consent that a summary of the alternative budget I have been discussing be printed in the RECORD.

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

AN ALTERNATIVE BUDGET FOR FISCAL YEAR 1974: SUMMARY

In accordance with a request made by the Joint Economic Committee to Sol M. Linowitz, Chairman of the National Urban Coalition, the Coalition staff undertook to evaluate the Administration Budget for Fiscal Year 1974, and to recommend changes in spending priorities.

We limited our objectives. Except where policy issues or longer-range spending priorities are involved, we focus on outlays for FY 1974—the amount of money the Federal government will spend next year—rather than budget authority (appropriations) or obligational authority (funds committed but not spent by the Administration).

We do not address every program in the Budget or even every governmental function.

We do not deal systematically with FY 1973 impoundments and rescissions proposed or made by the Administration; many of these are still unresolved.

We have not taken account of possible tax reform.

We propose no overall increase in Federal spending in FY 1974. Our Alternative Budget reorders priorities within the spending ceiling of $268.7 billion proposed by the President.

Because we are mainly concerned with outlays for the next fiscal year, we do not address in great detail several programs—national health insurance, for example—which we endorse but doubt will be enacted in time to result in any substantial spending in FY 1974.

This is a minimum Alternative Budget, in our view. Further evaluation and reflection would undoubtedly suggest other program areas in which increased or reduced spending could be recommended.

RATIONALE FOR REORDERED PRIORITIES

In deciding how to reorder the spending priorities recommended by the Administration for FY 1974, we were guided by several principles and observations.

First, as the National Urban Coalition has declared before, the United States ought to pursue six goals as a nation:

To achieve full employment with a high level of economic growth and reasonable price stability.

To provide all citizens with an equal opportunity to participate in American society and in the shaping of governmental decisions affecting their lives.

To guarantee that no American will go without the basic necessities: food, clothing shelter, health care, education, a healthy environment, personal safety and an adequate income.

To rectify the imbalance in revenues between the Federal government and state and local governments.

To assure adequate national security against military threats from abroad.

To meet our obligations to assist in the economic development of the world's less-developed nations.

We believe, second, that the Federal government bears a greater responsibility than any other institution of our society to ensure that the basic needs of disadvantaged citizens are met.

Third, we share the belief of the Administration that some Federal programs are so narrowly drawn and exist in such profusion that they could logically be consolidated, resulting in more efficient use of Federal dollars at the local level. But consolidation of programs does not require relinquishing Federal commitments to specific goals. Where grant consolidation seems logical, we generally prefer to move to block grants, under which Federal objectives and purposes are specified with considerable precision, but which allow local governments more latitude than they now possess, in many cases, to decide how these objectives will be carried out.

Fourth, we believe that considerable new social research and experimentation ought to be conducted and supported by the Federal government. Many of the principles on which existing social and economic assistance programs are based have been called into question in recent years. We need to know far more about how a number of social and economic assistance programs actually affect their intended beneficiaries, and to test a variety of new proposals for economic and social aid.

Fifth, and a closely related point, we do not believe that the inadequacies of essential social and economic assistance programs justify abrupt reductions in spending, or termination of programs mandated by law. Neither the real needs of American citizens nor the need for reform and redirection of social and economic assistance are served when expectations and orderly plans are disrupted suddenly.

THE ALTERNATE BUDGET: A SUMMARY

Table 1 compares Administration Budget outlays for FY 1973 and FY 1974 with the outlays recommended by the National Urban Coalition.

In overall terms, we propose shifting $5.1 billion from defense and $1 billion from General Revenue Sharing to eight Federal domestic functions.

In summary, these are our recommendations:

National Defense. Cut military manpower by 300,000 men over the next fifteen months, for a savings of $1.6 billion. Reduce associated operations and maintenance costs by $600 million. Simultaneously, substantially reverse "grade creep" by moving 50 percent of the way toward restoration of the grade distribution of FY 1964, the last "peacetime" year before the manpower buildup for the war in Southeast Asia, for a savings of $600 million. Terminate or stretch out development or procurement of nine strategic and tactical systems, for a savings of $2.3 billion. In sum, reduce defense outlays by $5.1 billion in FY 1974.

Agriculture and Rural Development, Natural Resources and Environment. Increase commitments for water and sewer capital grants in FY 1974, which will result in increased outlays in FY 1975. Sustain the loan subsidy program for rural housing at the FY 1974 level (at no additional outlay cost on the assumption that loan repayments and mortgage sales will equal funds lent).

Commerce and Transportation. As the Administration Budget proposes, open the highway trust fund for mass transit needs, and spend additional direct outlays for mass transit development. No increase in outlays recommended.

Community Development. Reverse the decision to terminate commitments for community development programs. By 1975, consolidate six physical development programs into an urban development block grant program that preserves Federal purposes. Continue Model Cities as a separate Federal aid program. Initiate experiments with Metropolitan Community Development Corporations. Continue funding comprehensive planning grants directly to metropolitan councils of government. Increase outlays from $2.2 billion to $2.7 billion in FY 1974.

Office of Economic Opportunity. Keep OEO intact as a Federal agency and increase its funding to $800 million in FY 1974.

Housing. Reverse the decision to terminate commitments for the four Federal housing subsidy programs. Consider development of a housing block grant program. Initiate additional experiments with alternative ways of subsidizing housing requirements for low- and moderate-income households. Add $300 million to outlays for FY 1974.

Education. Maintain Title I of the Elementary and Secondary Education Act and vocational education programs intact, and increase Title I funding to $2.5 billion. Increase funding for emergency education assistance to $500 million. Keep the library subsidy program as a separate categorical aid program. Double expenditures for bilingual education and increase early childhood education expenditures by 50 percent. Continue the strong support proposed by the Administration for Basic Educational Opportunity Grants but fund supplemental student aid. Add $1.2 billion to outlays for education in FY 1974.

Manpower and Employment. Proceed with the essentially sound Administration proposal for consolidation of manpower training programs, but increase the funding for those programs. Reverse the decision to terminate the public service employment program authorized by the Emergency Employment Act. Add $1.2 billion to manpower and employment outlays in FY 1974.

Health. Substantially increase the funding for health education and training—especially for paramedical training. Restore $75 million for Medicaid and $616 million for Medicare that the Administration proposes to save. Continue the community mental health program and restore funds for it that would be cut. Continue commitments and funding for the construction of health facilities, including Hill-Burton, but redirect the latter program to the upgrading and construction of health facilities in disadvantaged communities. Add $1.1 billion to health outlays for FY 1974.

Income Security. Beginning late in FY 1974, initiate a program of welfare reform—specifically the Ribicoff-Administration compromise plan of last year—that would guarantee a Federal floor of $2,600 for a family of four. In FY 1975, raise the floor to $3,000 and provide wage supplements for the working poor. Provide full funding at the level of $2.5 billion for grants to states for social services for recipients of public assistance. Add a total of $1.1 billion to outlays for income security in FY 1974.

Veterans Benefits. Reverse the proposal to cut over $200 million from veterans' pensions in FY 1974.

Law Enforcement and Justice. Substantially reform the Law Enforcement Assistance Administration by requiring far more emphasis on personnel rather than hardware, on civil rights, on community assistance to law enforcement planning, and on other reforms of the criminal justice system. No increase in outlays is recommended.

Civil Rights and Equal Opportunity. With very sharply increased outlays proposed for next year, no increase in funds is recommended. What is necessary is a sharp escalation in the commitment of the Federal government to enforcement of civil rights laws and provision of equal opportunity.

General Revenue Sharing. Because of the present huge state revenue surpluses, reduce outlays for General Revenue Sharing for one year by $1 billion and apply this amount to the urgent public needs identified elsewhere in the Alternative Budget. Modify General Revenue Sharing to exclude payments for low priority needs, and shift the savings from this reform to more urgent needs.

TABLE 1.—ADMINISTRATION AND ALTERNATIVE BUDGET OUTLAYS FOR ALL FEDERAL FUNCTIONS AND PROGRAMS

[In billions of dollars]

Program or function	Administration estimates		National Urban Coalition recommendations	Difference between administration and NUC outlays
	Fiscal year 1973	Fiscal year 1974	fiscal year 1974	fiscal year 1974
National defense	76.4	81.1	76.0	−5.1
International affairs and finance	3.3	3.8	3.8	
Space research and technology	3.1	3.1	3.1	
Agriculture and rural development	6.1	5.6	[1] 5.6	
Natural resources and evnironment	.9	3.7	3.7	
Commerce and transportation	12.5	11.6	11.6	
Community development	2.1	2.2	2.7	.5
OEO	.7	.3	.8	.5
Housing	1.1	2.3	2.6	.3
Education	6.6	6.9	8.1	1.2
Manpower	3.9	3.3	4.5	1.2
Health	18.9	22.5	23.6	1.1
Income security	75.9	82.0	83.1	1.1
Veterans benefits and services	11.8	11.7	11.9	.2
Interest	22.8	24.7	24.7	
Law enforcement	1.6	1.9	1.9	
Other general government functions	4.0	4.1	4.1	
General revenue sharing	6.8	6.0	5.0	−1.0
Allowances for contingencies	.5	1.8	1.8	
Duplications [2]	−.9	−.8	−.8	
Undistributed intragovernmental transactions	−8.4	−9.1	−9.1	
Total	249.8	268.7	268.7	

[1] We recommend a $1,000,000,000 increase in outlays for subsidized rural home loans, which would be offset by loan repayments and mortgage sales of an equal amount.

[2] Certain outlays we included under health duplicate expenditures also included under a number of other budget categories.

Notes.—Numbers may not add to totals due to rounding.

NO MONEY FOR THE TRINITY RIVER PROJECT

Mr. PROXMIRE. Mr. President, last month we had one of the most astonishing referenda results that I have seen. Members of the Congress always assume that the folks back home want whatever pork barrel we can provide in the way of public works. We find that is not always true. However, rarely do we have evidence to prove that. I now have the evidence, and I suppose that if any State is regarded as being in favor of pork barrels, it is that great and remarkable State of Texas.

Mr. President, last month the voters of Texas resoundingly rejected one of the largest public works boondoggles ever proposed. I am referring to the Trinity River project, which would involve the construction of a barge canal from the Dallas-Fort Worth area to the Gulf of Mexico. The cost: A staggering $1.6 billion. Some people said it would be cheaper for us to move the Dallas-Fort Worth area to the Gulf of Mexico.

The canal would be 335 miles long. It will alter the flow and drainage of an area larger than the entire State of Rhode Island. It will involve the construction of 16 navigation dams, 20 locks, and 5 reservoirs.

A project of this nature—apart from its enormous financial costs—will entail substantial environmental costs. It will disrupt the downstream flow of vital nutrients to the coastal marshes where the Trinity River runs into the Gulf of Mexico. It will eliminate plant and animal communites along the river. It will alter fresh-water flows of the river. It will drown 440 square miles of river, forest, and farmland. The first stage of the project—the Wallisville Barrier—would eliminate more than 12,000 acres of estuary which now serve as nursery ground for more than 55 estuarine dependent species. It would also cause an estimated annual loss of 7 million tons of commercial fish.

In light of this, it is no surprise that in January of this year the Texas Parks and Wildlife Department urged that the Trinity River project be halted as soon as possible. The department stated:

The ecological results of this project would be wholesale devastation of existing aquatic and terrestrial plant and animal communities. This devastation would occur along the entire length of the Trinity River from Dallas to the Gulf of Mexico.

Last year, Professor of Economics Donald Smith of Southern Methodist University undertook a comprehensive cost-benefit analysis of the Trinity River project. He presented his study in testimony before the Senate Public Works Appropriations Subcommittee. His conclusion: The economic costs of the project exceed the economic benefits of the project by $281 million. In addition, the Texas Railroad Association has found that if additional transportation were needed along the proposed canal route, a four-lane highway with a railroad down the middle could be built from Dallas-Fort Worth to Houston for about one-third the cost of the canal and would require only one-tenth the maintenance cost.

Mr. President, from its inception I have been opposed to this gigantic pork barrel boondoggle. I am delighted to see that the voters of Texas agree—and by a margin of more than 21,000 votes in the area involved. By a margin of more than 21,000 votes, they said they opposed the project.

I am delighted also, of course, to see the great amount that that action may very well have saved the taxpayers of this country; $1.4 billion is not peanuts.

Mr. President, I ask unanimous consent that an editorial from last week's Chicago Tribune entitled "Some Texans Save a Billion" be printed in the RECORD.

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

SOME TEXANS SAVE A BILLION

Voters in 17 Texas counties in the Trinity River Basin have delivered a heavy blow to a project to canalize that river for barges all the way to Dallas and Fort Worth. By a margin of more than 21,000 votes, they rejected a property tax needed to raise the local contribution to a project that would cost $1.3 billion. Taxpayers throughout the United States—most of whom never have heard of the Trinity River—would have provided most of the money for the 384-mile long canal, locks, dams, etc.

Many public works of doubtful merit are built because they mean a lot of money for a few and only a little money in per capita costs for those who pay. Thus intense, local self-interest [and the project hunger of the Army Corps of Engineers] often prevails over a more diffuse public interest in saving money or conserving the natural environment. But this time local promoters were frustrated by other locals, unpersuaded of the need to canalize the Trinity River deep into the heart of Texas.

The motives of the victorious voters no doubt were mixed. Some disinterestedly hated to see another river canalized. Others voted their pocketbooks no less certainly than did promoters who hoped for big profits from the canal.

When this question, "What's in it for me?" is raised clearly and acted upon by more than 200,000 persons, the public interest fares better than when only a few score or a few hundred persons ask themselves that question. Tho the pro-canal bloc may keep on trying, the 137,000 persons who voted to save themselves $150 million may well have saved the rest of us a billion dollars.

Thanks, Texas voters.

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

Mr. PROXMIRE. I yield to the Senator from Texas.

Mr. TOWER. Let me say that what the voters rejected was a particular means of financing the canalization of the Trinity. They did not reject the Trinity River project at all, nor did they reject all the other aspects of the Trinity Valley program.

Mr. PROXMIRE. Well, as I understand the vote on the referendum, the issue as it was presented and the issue as it was voted upon would have a very clear effect in killing the project.

Mr. TOWER. Also on levying the taxes.

Mr. PROXMIRE. And might very well result in ending this project.

Mr. TOWER. It was on levying the tax to finance a specific aspect, that being the canalization of the Trinity. There are other means of financing the canalization of the Trinity being sought, involving local financing, and, knowing the ingenuity of the Trinity River Valley Authority, I am sure they will find it.

Mr. PROXMIRE. I thank the Senator from Texas, but I would hope this decision by the people of Texas not to let

that tax be levied—and that is essential if the project is to be completed; it requires the local contribution—their decision not to go ahead in this manner is, I hope, a very effective veto that will, as I say, save over a billion dollars.

Mr. President, I yield the floor.

THE WHOLESALE PRICE INDEX FOR MARCH IS A DANGER SIGNAL

Mr. JAVITS. Mr. President, the wholesale price index report for March is a loud and clear danger signal. Farm products, processed foods and feeds were up 4.7 percent over the February figures. That is an annual rate of more than 50 percent. By any standard, that is runaway inflation.

The figures are equally bleak for another staple of life: housing. Consider this sentence from the Labor Department's report:

> Lumber and wood products and metals together accounted for well over half of the rise in industrial commodities in March.

If this is a Nation on wheels, it may soon grind to a halt; a halt caused by sharply increasing fuel prices, now moving upward at an annual rate of more than 8 percent. At the same time, we face constantly growing shortages of fuel to power our vehicles and heat our homes and businesses. There is a clear need for a crash program to increase the Nation's refinery capacity.

It is equally clear that my misgivings about phase III, voiced when that program was initiated, have been more than confirmed; they have been intensified. Phase III has not worked. It is not working. We must have tough, effective controls to stop the constant, upward surge of prices in virtually every sector of our economy. I strongly urge the President now to go to phase IV and to extend again active controls over prices and wages as in phase II and this time to include agricultural products. Another freeze will not make it as too rigid but a frank recognition that we made a mistake in coming off phase II too soon has a chance.

Mr. PROXMIRE. Mr. President, will the Senator from New York yield?

Mr. JAVITS. I yield.

Mr. PROXMIRE. I commend the distinguished Senator for his statement. He is one of the outstanding experts on the economy in either body of Congress, and a very valuable Member, the ranking minority member, of the Joint Economic Committee.

I would like to call the Senator's attention to the very sharp increases in nonfood items in the wholesale price index, especially chemicals, rubber products, pulp and paper, metals—all down the line of these basic materials, the figures represent huge increases.

If these figures are projected—at an annual rate, it would be seen they are very shocking, and the phrase the Senator used, "run-away inflation" would apply to a very large number of commodities.

That is why I am very happy to see the distinguished Senator from New York, who speaks with authority as a member of the committee, add his voice to those of us who feel that we need an inflation control system with teeth.

The Senator calls for a return to phase II, and I think that makes a whale of a lot of sense, if we could do that, but I would go farther, as the Senator knows, and return to phase I. The proposal by the Senator from New York, documented as it now is by the latest wholesale consumer price index, which I think is the most devastating inflationary development we have had since last November, when we had a sharp setback, is unanswerable. It demonstrates that unless we do more, the Government is failing the people in this very important economic area.

Mr. JAVITS. It seems to me that one thing sticks out in this whole thing, and that is the difference between wish and performance. I think phase III was instituted because of the wish to get over wage-price controls. This is legitimate and thoroughly American; none of us approves of it. We wish the open market would do the job. That is the course of freedom.

But the only thing that will get over wage and price controls is the necessary productivity to keep pace with the increase in the demand, including the overseas demand, which today is no longer to be considered as a Christmas tree proposition, because we live or die by what we buy abroad in the way of minerals and fuel, and we are going to be doing more rather than less of the same thing.

So it seems to me that, as the exhortation from on high did not work—that is what it was, and it was honest and sincere, and a good try, Mr. President—the conditions which dictated August 15, 1971, and which dictated phase II thereafter, are the conditions which persist. The exhortation did not work, and adult Americans are not so inflexible that we have to perish before we recognize that fact, and take the necessary measures to abate a disastrous situation.

Mr. PROXMIRE. May I say to the Senator that just a few minutes ago, in hearings in the Senate Banking Subcommittee on Economic Stabilization, I asked Secretary Shultz whether he thought phase III was a mistake.

He said "No," he still supports it. Of course, he must take a supportive position as Secretary of the Treasury and top economic adviser to the President of the United States. But I am very happy that the Senator from New York has spoken out in his usual nonpartisan way, to indicate his feeling that it is time for the President and Congress to take another look at this situation.

Phase III has been a dismal, disastrous failure, and unless we take action, the situation is going to get much worse.

The point about our wholesale prices is that they are the consumer prices of the future. When wholesale prices do what they have just done, go not just to the ceiling but through the roof, we just have to act.

I thank the Senator.

Mr. JAVITS. I thank the Senator from Wisconsin.

I would like to conclude, Mr. President, by saying that I realize it is practically impossible to do this in Congress. All the well-aimed resolutions to the contrary notwithstanding, it is likewise impossible to do it only in the Presidency. Because neither can do it alone, Mr. President, does not make either side right.

Therefore, I think we have a right, in the high interests of the country, to make our position very strong to the President, and I hope the President will listen in the same spirit of collaboration that he expects from us.

CONTINUATION OF THE LEGAL SERVICES PROGRAM

Mr. JAVITS. Mr. President, six Senators have joined in a letter advising our colleagues that on the supplemental appropriations bill we intend to seek $71.5 million for the continuation of the legal services program.

Mr. President, the legal services program should not be permitted to fall between the stools, because it is most valuable as one of the few remaining aspects of the war on poverty. It has proved its worth to everyone, including the administration; because it is doubtful that we can get a corporation organized in time to continue the program before it loses its personnel and loses its ability to function effectively. We consider it advisable to seek funding for the current program.

Joining with me in a "Dear Colleague" letter distributed today are Senator GAYLORD NELSON, Democrat, of Wisconsin, the chairman of the Subcommittee on Employment, Manpower and Poverty, Senator ROBERT TAFT, Republican, of Ohio, ranking minority member of that subcommittee, and Senators ROBERT STAFFORD, Republican, of Vermont, ALAN CRANSTON, Democrat, of California, and WALTER MONDALE, Democrat, of Minnesota, all members of the Committee on Labor and Public Welfare.

The letter seeks support for an amendment to the second supplemental appropriations bill, soon to be considered in the Senate, to provide $71.5 million for continuation of the legal services program through fiscal 1974. Funds would be appropriated under the authorization and reservations contained in the Economic Opportunity Act Amendments of 1972—Public Law 92-424—signed into law by the President on September 19, 1972, and the "advance funding" provision contained in the Economic Opportunity Act.

The administration has requested funds for fiscal year 1974 but contingent upon the establishment of a new legal services corporation for which it intends to submit authorizing legislation, but has not yet done so.

A proposal to establish a new national legal services program was passed last year by both Houses as a part of the extension of the antipoverty program, but dropped from the conference bill when agreement could not be reached with the administration on the terms of the measure. A previous proposal for a legal services corporation was contained in a bill vetoed by the President in December 1971.

The proposed amendment would provide funds for the current OEO program until such a corporation is established

and ongoing. In the event that OEO is unable to carry out the program, provision would be made for administration by the Department of Health, Education, and Welfare until the corporation can be established. For the current fiscal year 1973, $71.5 million has been appropriated for the program.

In our letter, we state:

We support fully the concept of a national legal services corporation and intend to make every effort toward the early implementation of that concept; however, until that goal can be realized, we believe that the current program should be funded in accordance with Congressional intent.

We consider the legal services effort to be one of the most important and cost-effective of the anti-poverty efforts and believe that it should not be subjected to an uncertain future which can only yield a present diminution in services, personnel problems and loss of faith by the poor in those efforts, if not in our system of justice.

Mr. President, with only a little under 3 months to go before the end of this fiscal year, the legal services program has its back up against the wall as a result of the administration's "take-it-or-leave-it" insistence that the program be conducted by a new corporation—which it has yet to propose—or not at all. Having failed to agree on legislation to establish such a corporation, the Congress enacted and the President signed last September, a bill for the continuation of the existing program. In the absence of such a corporation or hopefully in transition to it, the law must be observed. The current program must not be permitted to be held "hostage" under some ultimatum by the administration as to its own future; it, and the poor it serves so well, are too important and deserving to be subjected to that fate.

The Congress authorized $71.5 million for fiscal year 1974 for the current program; the administration while it would have those funds made available only to a new corporation, does not dispute the amount. We hope to provide it with flexibility as to the question of who will administer the program. There is no reason why the poor should sit on the sidelines—deprived of basic services—while the Congress and the Executive throw that $71.5 million and with it the rights of the poor—back and forth down the field. Instead, they should be put on notice at an early date that it will be made available, however the intramural struggle turns out.

Hopefully, our proposal will not only provide funds necessary to continue the effort but accelerate submission, and consideration of, and final action on legislation to establish a new national legal services corporation, breaking the impasse which has attended that matter for more than 2 years.

Mr. President, the legal services program was established in 1967 as one of the major antipoverty efforts under the Economic Opportunity Act of 1964; since that time the Federal Government has invested about $315.0 million in the program, which provides legal advice and assistance to the poor. The program currently handles annually a caseload of over a million cases through approximately 2,500 lawyers working out of 900 neighborhood offices and 16 support centers in 300 cities throughout the Nation. It has enjoyed the important suppport of the organized bar. It should be continued while the form of its administration in the future is being shaped.

I ask unanimous consent that the material text of the letter, together with a chart showing the current level of funding in each State be printed in the RECORD.

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

U.S. SENATE,
Washington, D.C., April 4, 1973.

DEAR COLLEAGUE: When the Second Supplemental Appropriations bill is considered in the Senate, in the next few weeks, we plan to propose an amendment to appropriate $71.5 million for the continuation of the legal services program through fiscal year 1974.

These funds would be appropriated pursuant to the authorization and reservation in that amount and for that purpose contained in the Economic Opportunity Act Amendments of 1972 (P.L. 92-424) and the "advance" funding provisions contained in Section 622 of the Economic Opportunity Act of 1964.

The Economic Opportunity Act Amendments of 1972, signed into law by the President on September 19, 1972, authorizes $840,000,000 for fiscal year 1973 and $870,000,000 for fiscal year 1974 for anti-poverty programs conducted by the Office of Economic Opportunity and provides that of those amounts in each fiscal year, the Director of the Office of Economic Opportunity shall "reserve and make available" not less than $71.5 million for legal services programs. On October 31, 1972, the President signed into law (P.L. 92-607) the Supplemental Appropriations Act appropriating $71.5 million for legal services for the current fiscal year, 1973.

The Administration has requested $71.5 million for legal services efforts in its budget submission for fiscal year 1974, but contingent upon the establishment of a new national legal services corporation for which it indicates it intends to submit authorizing legislation. Despite the clear intent of the Economic Opportunity Act Amendments of 1972, in the absence of a corporation, funds have not been requested for continuation of the current program administered by the Office of Economic Opportunity; at this date, no legislation to establish a corporation has been submitted by the Administration.

We support fully the concept of a national legal service corporation and intend to make every effort toward the early implementation of that concept; however, until that goal can be realized, we believe that the current program should be funded in accordance with Congressional intent. Appropriate provision will be made to take care of the transition.

We consider the legal services effort to be one of the most important and cost-effective of the anti-poverty efforts and believe it should not be subjected to an uncertain future which can only yield a present diminution in services, personnel problems and loss of faith by the poor in those efforts, if not in our system of justice.

Instead, the Congress should give notice at the earliest possible date that the $71.5 million, not disputed in itself, will be made available for continued efforts—including basic programs and supporting centers—whether the program is to be continued by OEO or conducted by a new national legal services corporation, as we hope it will be. If for any reason the Office of Economic Opportunity is unable to make funds available, provision will be made for their administration by the Department of Health, Education and Welfare until the corporation can be established.

Enclosed is information with respect to the legal services program conducted in your State.

Sincerely,

JACOB K. JAVITS,
GAYLORD NELSON,
ROBERT TAFT, JR.,
WALTER F. MONDALE,
ALAN CRANSTON,
ROBERT T. STAFFORD.

The Legal Service program fiscal year 1973 annualized budget

Region I:	
Connecticut	$1,434,311
Maine	500,892
Massachusetts	2,520,550
New Hampshire	350,000
Rhode Island	460,000
Vermont	294,247
Total	5,565,000
Region II:	
New Jersey	2,879,666
New York	7,370,912
Puerto Rico	956,088
Virgin Islands	96,000
Total	11,302,666
Region III:	
Delaware	96,000
District of Columbia	1,077,000
Maryland	504,000
Pennsylvania	1,977,000
Virginia	329,000
West Virginia	427,000
Total	4,410,000
Region IV:	
Alabama	221,000
Florida	1,497,000
Georgia	1,006,000
Kentucky	344,000
Mississippi	698,000
North Carolina	341,000
South Carolina	377,000
Tennessee	630,000
Total	5,174,000
Region V:	
Illinois	2,670,628
Indiana	733,296
Michigan	2,776,725
Minnesota	401,816
Ohio	2,086,256
Wisconsin	839,341
Total	9,508,062
Region VI:	
Arkansas	136,340
Louisiana	820,526
New Mexico	343,707
Oklahoma	406,300
Texas	2,001,661
Total	3,708,534
Region VII:	
Iowa	509,800
Kansas	297,000
Missouri	980,000
Nebraska	361,000
Total	2,147,800
Region VIII:	
Colorado	1,054,000
Montana	457,000
Utah	261,000
Wyoming	100,500
Total	1,872,500
Region IX:	
Arizona	642,500
California	10,109,500
Hawaii	346,000

The Legal Service program fiscal year 1973 annualized budget—Continued

Region IX—Continued	
Nevada	159,200
Micronesia	600,000
Total	11,857,200
Region X:	
Alaska	488,495
Idaho	133,336
Oregon	517,140
Washington	503,164
Total	1,642,135
Total operating programs	57,187,897
Support and training (see list attached)	5,655,000
Other	8,657,103
Total legal services budget	71,500,000

NOTE.—These "other" costs include legal services grants and services such as, Reginald Heber Smith Fellowships, Indian programs, research and development, evaluations, and administration of the Office of Legal Services; in fact, these programs and services cost, in fiscal year 1973 annualized figures, $14,926,000.

Center on Social Welfare Policy & Law, 25 West 43rd Street, 12th Floor, New York, New York 10036 (212) 354–7670.

Harvard Center for Law & Education, 61 Kirkland Street, Cambridge, Massachusetts 02138 (617) 495–4666.

Legal Action Support Project, Bureau of Social Science Research, 1990 "M" Street, NW, Washington, D.C. 20036 (202) 223–4300.

Legal Services for the Elderly Poor, 2095 Broadway, New York, New York 10023 (212) 595–1340.

Legal Services Training Program, Columbus School of Law, Catholic University of America, Washington, D.C. 20017 (202) 832–3900.

Migrant Legal Action Program, 1820 Massachusetts Avenue, NW, Washington, D.C. 20036 (202) 785–2475.

National Clearinghouse for Legal Services, Northwestern University School of Law, 710 North Lake Shore Drive-Mezzanine Floor, Chicago, Illinois 60611 (312) 943–2866.

National Consumer Law Center, Inc., One Court Street, Boston, Massachusetts 02108 (617) 523–8010.

National Employment Law Project, 423 West 118th Street, New York, New York 10027 (212) 866–8591.

National Health Law Program, University of California, 2477 Law Building, 405 Hilgard Avenue, Los Angeles, California 90024 (213) 825–7601.

National Housing & Economic Development Law Project, Earl Warren Legal Institute, University of California, Berkeley, California 94720, (415) 642–2826.

National Juvenile Law Center*, St. Louis University School of Law, 3642 Lindell Boulevard, St. Louis, Missouri 63108 (314) 533–8868.

National Paralegal Institute, 2000 "P" Street, NW, Suite 600, Washington D.C. 20036 (202) 872–0655.

National Resource Center on Correctional Law and Legal Services, 1705 DeSales St., NW, Washington, D.C. 20036 (202) 293–1712.

National Senior Citizens Law Center, 1709 West 8th Street, Los Angeles, California 90017 (213) 483–1491.

Native American Rights Fund, 1506 Broadway, Boulder, Colorado 80302 (303) 447–8760.

Technical Assistance Project, National Legal Aid & Defender Association, 1601 Connecticut Avenue, NW, Suite 777, Washington, D.C. 20009 (202) 462–4254.

Youth Law Center*, Western States Project, 795 Turk Street, San Francisco, California 94102 (415) 474–5865.

COALITION ON HUMAN NEEDS AND BUDGET PRIORITIES ANNOUNCES SUPPORT OF HUMPHREY NATIONAL PRIORITIES RESOLUTION

Mr. HUMPHREY. Mr. President, on March 6, 1973, I introduced Senate Concurrent Resolution 14—the resolution on national priorities.

This resolution expresses the sense of the Congress that $5 to $7 billion can be pared from the military budget and another $5 to $7 billion raised from tax reform to be utilized to promote full employment, quality education, and health care, and improved living conditions in our urban and rural areas.

Today, April 5, 1973, a new coalition—the coalition for human needs and budget priorities—was formed to support this resolution in particular and to actively organize at the local level in support of programs dedicated to improving the lives of our people.

I am proud that Senate Concurrent Resolution 14 has the support of the various groups that make up the coalition for human needs and budget priorities.

The coalition represents a diverse constituency—representatives and individuals from the League of Women Voters to the Friends of the Earth to the National Conference of Catholic Charities, the National Farmers Union, the National Council of Senior Citizens, the National Urban League, the Americans for Democratic Action, the United Mine Workers, the United Automobile Workers, the homebuilders and others. This resolution will permit the Congress to establish priorities within the budget ceiling. These priorities are essential to the well-being of our Nation. The issue is not merely how much money Congress shall appropriate, but more significantly for what purposes. That is the issue.

Mr. President, I ask unanimous consent that a listing of the board of directors of the coalition for human needs and budget priorities and the resolution on national priorities, Senate Concurrent Resolution 14, be printed at this point in the RECORD.

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

DIRECTORS—COALITION FOR HUMAN NEEDS AND BUDGET PRIORITIES

Chairman: Mayor Henry Maier, Mayor of Milwaukee (Former President, U.S. Conference of Mayors), 200 West Wells, Milwaukee, Wisc.; (414) 278–2201.

Vice Chairperson: The Rev. Sterling Cary, President, National Council of Churches, 297 Park Avenue, South, New York, N.Y.; (212) 475–2121.

Albert E. Arent, Esq., 1815 H Street, N.W., Washington, D.C. 20006; 347–8500.

Lucy Benson, President, League of Women Voters of the U.S., 1730 M Street, N.W., Washington, D.C. 20036; 296–1770.

Robert Brauer, Friends of the Earth, 529 Commercial Street, San Francisco, Calif. 94111 (620 C St. SE, Wash. DC 20003); (415) 391–4270.

Hodding Carter, Jr., Publisher, Delta Democratic Times, Greenville, Miss.; (601) 335–1155, (601) 335–4561—newsroom.

Gail Cincotta, National Peoples Action on Housing, 1109 North Ashland, Chicago, Ill.; (312) 486–4111; (312) AR6–0211.

Jack Conway, Common Cause, 2100 M Street, N.W., Washington, D.C.; 833–1200.

Bronson Clark, Exec. Sec'y American Friends Service Committee, 112 South 16th, Philadelphia, Pa.; (215) LO3–9372.

Wilbur Cohen, Former Sec'y, Dept. H.E.W., c/o School of Education, University of Michigan, Ann Arbor, Mich. 41802 (313) 764–1817.

Robert Coles, 816 Mullen Road, N.W., Albuquerque, N. Mex. 87107 (505) 344–1313.

Msgr. Laurence Corcoran, President, National Conference of Catholic Charities, 1346 Conn. Ave. N.W., Washington, D.C. 20036 785–2757.

Sr. Carol Coston, Exec. Dir. Network, 224 D Street, S.E., Washington, D.C. 20003 832–1914.

Bernice Crawley, National Tenants Organization, 437 Rosedale Street, Pittsburgh, Pa. 15221 (425 13th St. NW, Wash., D.C.) (412) 243–5138.

Nelson Cruikshank, President, National Council of Senior Citizens, Inc., 1511 K Street, N.W., Washington, D.C. 20005 783–6850.

Tony Dechant, President, National Farmers Union, 1012 14th Street, N.W., Washington, D.C. 638–9774.

Mrs. Frances T. Farenthold, National Women's Political Caucus, 1302 18th Street, N.W., Washington, D.C. 20036 785–2911.

Marian Edelman, President, Washington Research Project, 1763 R Street, N.W., Washington, D.C. 483–1479.

Elizabeth S. Ginne, President, Young Women's Christian Association of the USA, 600 Lexington Avenue, New York, N.Y. 10022, (212) 753–4700 ext. 216.

Mayor Kenneth Gibson, Mayor of Newark, Newark, N.J. (201) 733–6400.

Fannie Lou Hamer, National Conference of Negro Women, 721 James Street, Ruleville, Miss. 38771 (601) 756–4619.

Clairie Harvey, President, Church Women United, 415 N. Parish Street, Jackson, Miss. 39201 (601) 353–2621.

Fr. Theodore Hesburgh, Chancellor, University of Notre Dame, South Bend, Indiana (219) 283–6011.

Rev. Jesse Jackson, Chairman, Operation Push, 7941 S. Halsted Street, Chicago, Ill. (312) 373–3366.

Vernon Jordan, President, National Urban League, 55 East 52nd Street, New York, N.Y. (212) 751–0300.

Rr. Admiral Gene LaRocque, Ret., Center for Defense Information, 201 Massachusetts Ave. N.W., Washington, D.C., 543–0400.

Allard Lowenstein, Chairman, Americans for Democratic Action, 383 Pearl Street, Brooklyn, N.Y. 11201, (212) 852–8117.

Bill Lucy, Sec'y/Treas. American Federation of State, County & Municipal Employees, 1155 15th Street, N.W., Washington, D.C. 20005, 223–4460.

Burke Marshall, Deputy Dean, Yale Law School, New Haven, Conn. 06500, (203) 436–1191.

Fr. Albert J. McKnight, President, Southern Cooperative Development Fund, Inc., P.O. Box 3005, Lafayette, La. 70501, (318) 232–9206.

Arnold Miller, President, United Mine Workers, 900 15th Street, N.W., Washington, D.C., 638–0530.

*Juvenile matters for Alaska, Arizona, California, Hawaii, Idaho, Nevada, New Mexico, Oklahoma, Oregon, Texas, Utah and Washington are handled by the Youth Law Center. The National Juvenile Law Center serves the remaining states.

The Rt. Rev. Paul Moore, Jr., Episcopal Diocese of New York, 1047 Amsterdam Avenue, New York, N.Y., (212) 749–1100.

Layton Olson, Exec. Dir. National Student Lobby, 413 East Capitol Street, Washington, D.C., 547–5500.

Terry Sanford, President, Duke University, Durham, North Carolina, (919) 684–8111.

David Seldon, American Federation of Teachers, 1012 14th Street, N.W., Washington, D.C., 737–6141.

Rabbi Henry Siegman, Exec. Vice Pres. Synagogue Council of America, 432 Park Avenue South, New York, N.Y. 10016.

John Silard, Rauh & Silard, 1001 Conn. Ave. N.W., Washington, D.C., 737–7795.

Floyd Smith, President, International Association of Machinists (AFL–CIO), 1300 Conn. Ave. N.W., Washington, D.C., 785–2525.

Margery Tabankin, Youth Project, 1000 Wisconsin Avenue, N.W., Washington, D.C. 20007, 338–5721.

Dr. Francisco Trilla, Chairman, Puerto Rican Association for National Affairs, 2121 P Street, N.W., Washington, D.C.

Paul Warnke, 815 Connecticut Ave. N.W., Washington, D.C., 298–8686.

Leon Weiner, Former Chairman, National Home Builders Association, % Leon Weiner & Associates, Inc., 4 Denny Road, Wilmington, Del. 19809, (302) 764–9430.

Dr. Raymond Wheeler, Chairman, Southern Regional Council, 52 Fairlie Street, Atlanta, Ga., (404) 522–8764.

Mayor Kevin White, Mayor of Boston, (Contact is Ira Jackson's office, sec'y is Barbara Weiss with direct and night number 617+ 722–4555), (617) 722–4100.

George Wiley, National Coordinator, Movement for Economic Justice, 1609 Connecticut Ave. N.W., Washington, D.C., 462–4200.

Leonard Woodcock, President, United Auto Workers, 8000 E. Jefferson Avenue, Detroit, Michigan 48214, (313) 926–5201.

Vicente Ximenes, 304 Monroe Street, N.E., Albuquerque, New Mexico 87108, (505) 265–2183.

General John F. McMahon, Director, Volunteers of America, 340 West 85th Street, New York, N.Y., (212).

Stewart M. Brandborg, Exec. Dir. Wilderness Society, 729 15th Street, N.W., Washington, D.C. 20–05, 347–4132.

[From the CONGRESSIONAL RECORD, Mar. 6, 1973]

SENATE CONCURRENT RESOLUTION 14—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO NATIONAL PRIORITIES

(Referred to the Committee on Government Operations.)

Mr. HUMPHREY. Mr. President, I am introducing today a resolution on national priorities that I believe will help prevent an era of retrenchment and retreat on the pressing domestic problems in our country.

This resolution would call for a fiscally responsible Federal budget for fiscal 1974 while at the same time placing the Congress clearly on record for reduced military expenditures and a reformed tax system. It would provide a means for meeting our domestic needs in public employment, health care, urban rehabilitation, rural economic development, housing, education, and pollution control.

Mr. President, this resolution squarely challenges the assumption that, in a time of peace, the United States must have a bigger and higher military budget. It certainly is an ominous sign that at the time when the energies so long postponed by the Vietnam war should be turned to the problems at home, the fiscal year 1974 budget ushers in an era of domestic retreat.

We saw the same thing happen after the Korean war in the 1950's. We should have moved ahead then—on our domestic problems. We did not, and in part, the problems of the 1960's resulted from the indifference of the 1950's.

We simply cannot allow that to happen in the 1970's.

Under my resolution, we can take the first step toward meeting the responsibilities of the 1970's.

This resolution expresses the sense of Congress that $5 to $7 billion can be pared from the military budget in such areas as weapons procurement, weapons research and development, and by economizing in foreign assistance and space programs, and that through the elimination of unwarranted tax preferences in the internal revenue code another $5 to $7 billion in revenues can be produced.

We can use these funds to promote full employment, quality education and health care, environmental protection, safe and improved living conditions in urban and rural areas, and equal opportunity for all Americans.

We can do these things while at the same time providing, through a fiscally responsible Federal budget, for the promotion of national security, stable prices, and tax justice. We can place the additional dollars realized through the paring of nonessential defense expenditures and the elimination of unwarranted tax preferences, into programs to meet vital domestic human needs.

In short, through a rearrangement of priorities, we can fund some of the programs that the Nixon administration refuses to fund.

And, we can do so without increasing the Federal deficit.

Mr. President, I am asking for nothing more than that the Congress apply the same standards toward defense, space, military assistance, and tax subsidy budgets that the President has applied to domestic programs.

We have streets that need repair. We have critical air and water pollution problems to solve. We have poverty and racial injustice to overcome. We have massive housing and transportation problems. We have serious health needs and educational needs.

These are the priorities before us. These are the challenges of our time. And we must seize the opportunity now to target Federal funds effectively in serving these vital national interests. That is the purpose of my national priorities resolution.

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

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

S. CON. RES. 14

Resolved by the Senate (the House of Representatives concurring), Expressing the sense of Congress that certain economizing and tax reform measures shall be taken to assure through a fiscally responsible Federal Budget for Fiscal 1974 effective action to promote national security, stable prices, tax justice, full employment, quality education and health care, environmental protection, safe and improved living conditions in urban and rural areas, and equal opportunity for all Americans.

Whereas the Constitution of the United States places the power of the purse in the Congress of the United States and requires the President to "take care that the laws be faithfully executed," and

Whereas it is in the national interest that the Legislative and Executive Branches work in harmony to promote prosperity and opportunity for the American people, and

Whereas the priorities, revenue policies and spending decisions of Federal Government play a critical role in assuring the health of the economy, equal opportunities for all citizens, a secure national defense, and a high quality of public services, and

Whereas control of inflation requires fiscal responsibility, the avoidance of unjustified deficit spending and the most prudent use of taxpayer's dollars, and

Whereas the Federal Budget for Fiscal 1974 and future budget projections call for the expansion of military programs but the elimination or drastic reduction of some $14 billion in domestic programs annually notwithstanding the cessation of hostilities in Vietnam, and

Whereas it is estimated that the Administration's budget requests for military, foreign assistance and space budgets can be reduced by between $5 to $7 billion without danger to our national security and without jeopardizing our international commitments, and

Whereas it is recognized by Treasury Department officials, the appropriate Committees of Congress and recognized experts that minimal, long overdue tax reform can produce $5 to $7 billion in new revenues and without increasing the tax burden of the average taxpayer, and

Whereas unilateral elimination of reduction by the Executive of federal domestic programs, contrary to law, without thorough evaluation of those programs by the Legislative Branch neither serves the national interest nor complies with the spirit or letter of the Constitution: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that (1) equally rigorous economies shall be applied by Congressional review to military, foreign assistance, space programs, and unwarranted tax preferences.

(2) Congress shall set as a target for action by the relevant committees with respect to the proposed Federal Budget for Fiscal 1974.

(a) the realization of savings of $5 to $7 billion by paring unneeded weapons procurement, weapons research and weapons development, by reducing excessive forces in the military, and by economizing in foreign assistance and space programs, and (b) the elimination of unwarranted tax preferences in the Internal Revenue Code, to produce additional revenues of $5 to $7 billion.

(3) These budgetary resources—all within a fiscally responsible and non-inflationary budget ceiling as developed by the Congress—shall be redirected to promote full employment, quality education and health care for citizens, environmental protection, safe and improved living conditions in urban and rural areas, and equal opportunities for all Americans, with particular but not exclusive emphasis given to providing for health care and national insurance coverage of health care costs for all Americans, expanded public service job opportunities, improvements in public assistance and social services programs, increased federal assistance for housing, education, and the rehabilitation of urban areas, adequate law enforcement, the promotion of rural economic development, and new programs designed to improve the living conditions of American working families.

FEDERAL HOUSING PROGRAMS

Mr. PROXMIRE. Mr. President, the Housing Subcommittee of the Senate Banking, Housing and Urban Affairs Committee has begun oversight hearings on the status of the Federal housing programs with particular emphasis on the moratorium on those housing and urban development programs providing assistance for families of low and moderate income. The decision by the administration to provide for a moratorium which may go—in effect, at least—as long as 18 months is one of the most serious decisions made by any administration in a long time.

It comes at a time when we have a

serious shortage of housing for people who have low or moderate incomes, where there are congested conditions in many of our cities, and at the time when the price of housing is escalating very rapidly. It also comes at a time when rents are under great pressure to rise. Without some kind of effective controls, they are likely to rise more sharply.

The committee shares a national concern about the moratorium which the administration has declared on these programs, specifically the section 235 homeownership, section 236 rental housing, the section 502 rural housing, the rent supplement and the public housing programs—all were suspended. On the basis of Mr. Lynn's testimony before the subcommittee yesterday, they are going to be suspended effectively, really, through the coming fiscal year. That is until at least July of 1974. The projections by the administration in the budget on the basis of the testimony yesterday—they did not reveal that until yesterday—shows that this means that 600,000 housing starts are taken out of the inventory for people with low or moderate incomes.

This concern is based upon the fact that that portion of this Nation's families who can least afford to bear the brunt of the administration's so called fiscal fight against inflation is being called upon to bear the heaviest burden by being denied the right to decent and safe housing.

Today our committee was presented with the most cogent and dramatic evidence of the fallacy behind the moratoriums and cutbacks we have yet heard. Mr. George C. Martin testifying as president of the National Association of Home Builders, using HUD's own statistics in a factual and devastating statement, outlined the performance and successes which these programs have achieved to date. His very clear and succinct statement is in sharp contrast to the evasive performance of HUD's Secretary James Lynn in his appearance before the committee yesterday.

Mr. President, we questioned Mr. Lynn again and again to provide us with documentary evidence, with the facts on which the moratorium decision should be based, but we got none of that.

Mr. Martin gave us facts and documented the success of the programs. He pointed out that the administration announced a confusion, that the present HUD programs cannot yield effective results and has since been attempting an evaluation which will support that result.

Mr. President, I should like to read a few excerpts from a statement by Mr. George C. Martin, president of the National Association of Home Builders in his testimony before the committee today.

He points out that—

The public housing and the rent supplement programs, designed to serve the low income, have reached even further down the income spectrum, serving families with incomes as low or lower than $2,000 per year.

As to whether the programs have been failures in another way, we believe that it is important to note that, as a result of increased incomes, government payments have been reduced in about 60% of all Section 235 cases recertified to date.

What that means is that people coming into the program afford homes although their incomes are modest. This makes sense. As their incomes rise, the subsidy is reduced and cut so that some people go off the subsidy entirely. After it has been working, people gradually work into a position where they are able to buy a home, and as their income is increased, get off the backs of the taxpayers.

He points out that in the homebuilder program, in 60 percent of the cases, they have been extraordinarily successful—that is more than half that the subsidy is reduced.

He points out that—

Over four percent of the home purchasers under the program have already gone off subsidy completely.

And this is a new program:

Farmers Home has had somewhat less experience to date with recertifications. However, 36% of those included in their first recertification were no longer eligible for subsidy and an additional 38% had subsidy reductions.

In addition, Mr. Martin points out in this very excellent statement that—

Under the Section 502 Rural Housing programs, including both subsidized and unsubsidized loans, the situation is even brighter.

So that the argument that this is the reason for suspending, does not add up.

Continuing:

Only 800 out of 660,000 units are currently in foreclosure status. This translates into a success rate for far more than over 99.99%.

The number is 800 out of 660,000 units—in other words, a 99.99 percent literally which have been successful. Foreclosures can be described as insignificant, easily covered by insurance with no economic impact of any significance at all. It is a brilliantly successful program, but one which is done during the moratorium.

Mr. Martin also pointed out that—

We have serious difficulties with the methods under which this review was conducted. The sample used was an extremely small percentage of the homes built under 235. The deficiencies found were lumped into two broad categories, making it impossible to determine the actual nature and frequency of the problems within each. No estimate was given of the cost or difficulty of repairing the defects reported. Finally, no comparable studies have been made of conventionally financed housing or housing under other HUD programs.

What Mr. Martin is saying is that this decision was made without any convincing analysis whatsoever. It was made, and then an attempt was made to justify it, and the justification has been extraordinarily thin.

Mr. President, I ask unanimous consent that this very fine statement be printed in the RECORD.

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

STATEMENT OF THE NATIONAL ASSOCIATION OF HOME BUILDERS

Mr. Chairman and Members of the Subcommittee: My name is George C. Martin and I am a home builder from Louisville, Kentucky. I appear here today as President of the National Association of Home Builders. Our association has more than 67,000 members in 546 associations throughout the 50 states, Puerto Rico and the Virgin Islands. I have with me Carl A. S. Coan, Jr., our Legislative Counsel, and Richard J. Canavan, our Staff Vice President for Builder Services.

We appreciate this opportunity to discuss with you the present distressing state in which we find the Federal housing programs. Just two years ago these programs, designed to assure an opportunity for all American citizens to obtain a decent home at a cost they can afford, were the mainstay of housing, just coming out of a severe recession and tight-money situation. During 1969 and 1970 we saw interest rates rise to previously unthought-of levels and housing starts at one time dip to a level less than one-half of what all authorities believe to be necessary. Yet, if it had not been for the many Federal programs to assist families of all income levels to acquire decent housing, matters would have been much worse.

Without FHA mortgage insurance and VA loan guaranties, thousands of middle-income American families would have found it impossible to obtain housing. For thousands of other middle-income families, and even those with higher incomes, housing would have been unobtainable without the very strong support given the conventional mortgage market by the Federal Home Loan Bank system. To these must, of course, be added the outstanding support provided by FNMA and GNMA through their secondary market activities. Likewise, in the rural areas, the programs of the Farmers Home Administration provided credit resources which did not otherwise exist, and for the first time spurred a significant production of new housing in rural areas. For the low and moderate income family there would have been no decent housing without HUD's 235, 236, rent supplement and public housing programs, and the Farmers Home interest credit program under section 502.

Because of the strong support provided through these programs, the housing industry was able to survive the problem years of 1969 and 1970 reasonably intact and was in a position to move forward vigorously in 1971 and 1972 to new production records. Yet today we find these tried and proven programs under attack, in disarray, and, to some extent, so allegedly discredited that they must be put on the shelf for perhaps as long as 18 months, while new, alternative methods are devised to achieve the same ends which the old programs seemed to have been achieving so well.

We are seriously disturbed about this situation. We question and wonder why programs which worked extremely well two or three years ago, now all of a sudden are inherently unworkable. We look with dismay at the disarray which exists throughout many of the field offices of the Department of Housing and Urban Development, where morale is low and personnel are confused as to their mission and their future. We hope that these hearings, with their announced goal of reviewing in depth the Federal role in housing our citizens, will answer some of the questions that have arisen in recent months and point all of us in the direction, which will assure that we can continue as the best housed nation in the world through the cooperation of industry and government.

This cooperation was first started in 1934 with the establishment of the Federal Housing Administration in the National Housing Act. It has been more successful than the sponsors of that ground-breaking legislation probably ever imagined. With the assistance of the FHA, the VA, the Farmers Home Administration and the many other Federal aids devised since 1934, we have been able, better than any other nation, to fulfill that basic human need—adequate shelter.

This has been most obvious during the past two years, as the United States experienced a rate of housing production unequaled in our history. Total housing starts reached the level of over 2.2 million dwelling units per annum, including an average of over 385,000 dwelling units for those of low and moderate income. This remarkable record has permitted the elimination of much substandard housing. Nevertheless, by even very conservative estimates, 17 million people in our metropolitan areas still live in overcrowded or substandard housing. In rural areas, the situation is even worse. Although only about 30% of the population lives in rural areas, they contain about 50% of our substandard housing. Clearly, we still have a long way to go to meet our country's housing needs.

The simple, but fundamental fact is that there are more American families in need of housing than there is decent, safe and sanitary housing available to accommodate them. Therefore, the obvious and inescapable conclusion is that more housing, including housing for low and moderate income families, must be produced to close this gap between housing supply and housing demand. Of equal importance, however, is the need to provide a means for low and moderate income families to afford the housing thus produced.

FEDERAL HOUSING SUBSIDY PROGRAMS

This need was first recognized over 35 years ago by the Federal Government, when the Congress first authorized Federal construction of housing for low-income families, and, then, in 1937 passed the U.S. Housing Act to provide Federal assistance for low-income housing to local housing authorities across the country. Down through the years, the Congress has increased considerably the Federal Government's role in assisting low and moderate income families obtain decent housing. This was done in recognition of the inescapable fact that only through such assistance would these families be able to afford decent housing.

Despite this long-term involvement of the Federal Government in assisting low and moderate income families obtain housing, it was not until 1968 that the effort was supported and funded to a degree that indicated that it would ever be successful. In 1968, the 1949 national housing goal of a decent home and a suitable living environment for every American family had a number and a time limited linked to it—6 million units for low and moderate income families over the succeeding ten years. Since then, there has been produced over 1.4 million units under the various subsidy programs of HUD and the Farmers Home Administration, more than produced in the previous 30 years.

Ironically, in spite of, or perhaps because of, this great success, we are now confronted with a suspension of these Federal programs and allegations that they have been failures, are inefficient, unworkable, too costly, misdirected, discriminatory and scandal-ridden. The Administration has called for sweeping evaluations of them and the development of alternatives that will apparently take entirely different approaches to the undenied, we believe, need to assist the low and moderate income to obtain adequate housing.

Frankly, we are puzzled. While the present approaches may not be the best, no one has yet devised better ones. While there may be deficiencies in the present programs, their great success to date would certainly not seem to dictate such a drastic action, as the present complete cessation while efforts go forward to correct any deficiencies. While they do cost money, no one has yet devised a means of providing housing without any cost. Furthermore, their projected cost for fiscal year 1974 is less than one percent of the projected Federal Budget and even in future years is not expected to rise much above that level.

In view of these anomalies, we would like to review some of the principal characteristics and criticisms of the present programs, based on the data we have been able to collect and the experiences of our members who have participated in the programs. But first, I would like to comment briefly on two of the principal alternatives that have been advanced. Much of my following commentary is based on information contained in a report prepared last year for us, the National Association of Mutual Savings Banks and the United States Savings and Loan League, by Dr. Anthony Downs of the Real Estate Research Corporation. We have previously sent a copy of this to each of you, but I have extra copies with me.

One alternative advanced for housing lower income families more cheaply is greater reliance on the existing housing stock. This is illusory. As long as there is an overall shortage of housing, the effect of a strong demand, bidding for an inadequate supply, will be to drive up the price of housing for all. To further increase demand by such approaches as a housing allowance, without a concomitant increase in supply, would only add further fuel to the inflationary fires. Indications also are that a housing allowance approach would probably be more expensive than the present approaches.

Another approach that has received considerable attention lately is to look to state and local governments. Although there are many ways in which they can contribute to solving housing problems, state and local governments with few exceptions lack both the financial ability and the technical expertise necessary to operate effective housing assistance programs. It was because of their failure and inability to act in the past that the Federal Government assumed its present role. We believe that decent housing for all citizens is a matter of national concern and that leadership in dealing with it properly belongs in the Federal Government.

The Administration has labeled the present programs as "failures," and the President has stated in his State of the Union message on Community Development that "too often the needy have not been the primary beneficiaries of these programs." A review of the newer housing assistance programs demonstrates their overwhelming success. In just four years under the Section 235, 236 and 502 interest assistance programs, established by the 1968 Housing Act, approximately 923,000 dwelling units have been produced to house an estimated 3.3 million low and moderate income Americans. The average cost per unit in Fiscal Year 1972 was $18,400 under 235, $19,900 under 236, and only $14,500 under Section 502. The median family income for those housed under the 235 program was about $6,400; under 236 it was $5,300; and under 502 it was $5,400.

These three programs have done what they were designed to do—served the moderate income. As anyone who is familiar with today's costs is aware, families at these income levels are not able to acquire adequate housing without an unreasonable expenditure of their limited incomes. The public housing and the rent supplement programs, designed to serve the low income, have reached even further down the income spectrum, serving families with incomes as low or lower than $2,000 per year.

As to whether the programs have been failures in another way, we believe that it is important to note that, as a result of increased incomes, government payments have been reduced in about 60% of all Section 235 cases recertified to date. Over four percent of the home purchasers under the program have already gone off subsidy completely. Attached, as Exhibit "A", are tables on this recertification experience. Farmers Home has had somewhat less experience to date with recertifications. However, 36% of those included in their first recertification were no longer eligible for subsidy and an additional 38% had subsidy reductions.

This very favorable record of self-improvement, by the beneficiaries of these programs further raises doubts about the accuracy of various Administration estimates of the eventual costs of these programs. Since the cost to the Government is determined largely by the rapidity with which the beneficiaries' incomes rise, the failure to take full account of recertification data has substantially exaggerated these estimates.

Many critics would, of course, concede the favorable aspects of these programs which I have reviewed, but base their opposition on alleged faults such as "high foreclosure rates," "shoddy construction," or a general propensity to "scandal."

Let us look first at the foreclosures under these programs. Actually, due to HUD's record-keeping method, the relevant category is "default terminations." "Default Terminations" include foreclosures, but also include assignments of mortgages to HUD. Such assignments avoid foreclosures to the benefit of all parties, especially HUD.

As of December 31, 1972, the last date for which figures are available, default terminations under Section 236 were 1.34% of the insurance in force at the beginning of the year, as compared to .95% for the FHA unsubsidized Section 207 multifamily program.

Under Section 235, default terminations were 6.14,% as compared to .49% for the FHA, unsubsidized 203 program. Unlike the 203 program, however, over 28% of the 235 default terminations for 1972 were assignments not foreclosures, meaning that these families are still in their homes attempting to work out their mortgage difficulties.

The Congress expected higher default rates under these assistance programs and for that reason established the Special Risk Insurance Fund. The actual rate of defaults under these programs has consistently fallen well within the range anticipated, based on HUD's own data.

There may be reason, however, to question the degree to which these data accurately reflect the default situation. The usual figures on defaults are percentages based on all insurance in force as of the beginning of the year under the particular program. A simple comparison of these percentages among programs ignores the fact that the mortgages under the subsidy programs are, on the average, newer than those under the unsubsidized programs with which they are usually compared. Since a mortgage is more likely, for obvious reasons, to fail in its earlier years, it is possible that HUD's reporting methods exaggerate the defaults under the new programs. In fact, a study by HUD of foreclosure rates in which the age of the mortgage was held constant, not only reduced the difference in the rates between the Section 203 and Section 235 programs, it showed that the rate under the unsubsidized 203 program was actually higher for three-year-old mortgages. A table demonstrating this is attached as Exhibit "B".

Under the Section 502 Rural Housing programs, including both subsidized and unsubsidized loans, the situation is even brighter. Only 800 out of 660,000 units are currently in foreclosure status. This translates into a success rate of over 99.99%.

Another charge leveled against the housing assistance programs relates to allegedly "shoddy construction." Such charges are naturally of particularly grave concern to our industry. Of course, most cases, in which the quality of the housing has been an issue, have involved existing units financed under the 235 program. Nevertheless, a team of HUD reviewers reported "defects" in 25% of the newly constructed units under Section 235, including 11% with "significant deficiencies."

We have serious difficulties with the methods under which this review was con-

ducted. The sample used was an extremely small percentage of the homes built under 235. The deficiencies found were lumped into two broad categories, making it impossible to determine the actual nature and frequency of the problems within each. No estimate was given of the cost or difficulty of repairing the defects reported. Finally, no comparable studies have been made of conventionally financed housing or housing under other HUD programs.

These points are important, because, in assembling the thousands of components which go into a house, some imperfections are to be expected. For this reason, responsible builders make one or more "callbacks" to correct any problems which were not apparent at the time of occupancy. It is not clear from their report to what extent the HUD auditors discovered anything which could not be, and was not, dealt with in this routine manner.

We, therefore, reject the implication that new housing under the assistance programs is of inferior quality. Nevertheless, we are deeply interested in sound approaches to assuring a high level of construction quality. As some of you know, we are currently studying several mechanisms to provide further assurance that all purchasers of newly constructed housing will receive the quality to which they are entitled.

I realize that it is difficult to reconcile the true record of the housing assistance programs with the sensational reports of their massive failure. A primary cause of the widespread misapprehension concerning the programs is the tendency of the press to treat isolated problem situations as representative. The second great source of confusion has been the failure to distinguish among programs.

For example, most of the much publicized foreclosures and defaults under HUD programs in Detroit and other major cities did not involve subsidized housing. Similarly, much criticism of the quality of construction under the programs has actually arisen in connection with the quality of existing housing, not new construction.

A disturbing feature of HUD's administration of the 235 program is its failure to request any funding for counseling of home buyers under the program and the refusal to spend for that purpose the $3.25 million provided by the Congress in fiscal 1972. This is a clear example of false economy. Virtually every authority in the field agrees that such counseling would more than offset its costs by further lowering the rate of defaults and other difficulties. The record of the rural housing programs, which provide more support in this regard, and of those cases where counseling has been provided through other means, presents persuasive proof of the value of counseling.

Finally, the greatest confusion exists as to the reasons for program failures in the relatively few cases in which they have occurred. Many have assumed that these problems indicate fundamental flaws in the assistance programs themselves. We believe, however, that the Joint Economic Committee was correct, in the conclusion reached after its recent study of these programs, that the problems that have arisen have been the result of poor administration by HUD, not weakness in basic legislative design.

I would like to bring up one matter at this point which deals with the problems caused by the present suspension, or moratorium, on the housing subsidy programs. As you are well aware, the announcement of the suspension of these programs was made without any previous warning to the users of the programs. As a result many builders, lenders, sponsors and others using these programs found themselves, in early January, holding the bag. On what I believe is a very reasonable basis, these builders and sponsors had made forward commitments to buy land, install site improvements, have detailed architectural plans drawn up, and even, in some cases, start construction. The basis was that the programs were operating, funds were available and many had outstanding moral commitments from government officials that their applications would be approved if all requirements were met.

While there have been many modifications of the original suspension orders, there are many builders and sponsors who still find themselves in serious financial straits because of the unexpected suspension of these programs. Some will go broke, others will survive but will sustain substantial financial losses. In the future few of them will rely on the word of the Federal Government, and even fewer are likely to participate in any type of housing subsidy program. This is a sad state of affairs. We urge that the Subcommittee call upon the Administration to move quickly and fairly to alleviate this situation. Whatever further orders are necessary to take care of the many bona fide hardship cases should be issued at the earliest possible date.

UNSUBSIDIZED FEDERAL PROGRAMS

I would like now to turn to the many unsubsidized housing programs of the Federal Government. As I indicated earlier, these programs were the mainstay of housing during the bleak years of 1969 and 1970. Most of them are still operating well, but one is in trouble. It is the basic one of them all—the FHA unsubsidized mortgage insurance program. The situation has become so serious that FHA business over the past two years has fallen off drastically and continues to decline.

Some have speculated that this has occurred because FHA has about served its purpose, with the private mortgage insurance companies now meeting most of the needs that FHA was originally formed to meet. Others have suggested that now is the time to spin FHA out of HUD into private ownership, or set it up as an independent Federal agency divorced of any responsibility for the subsidy programs. We believe none of these is the correct course of action.

The trouble with FHA is not that it has served its purpose and should now be put out to pasture, or that basic changes in its organizational relationships with HUD are necessary. The trouble is with the way it has been administered. Unlike FHA, the VA and Farmers Home Administraion are not experiencing any sharp fall-off in use. Instead their use has increased. But, also unlike FHA, they have not been going through traumatic reorganizations and experiencing personnel shortages which make it almost impossible to operate efficiently.

Faulty administration by HUD has caused most of the problems which have arisen in connection with both the subsidized and unsubsidized FHA programs. To a large degree this maladministration has resulted, in turn, from a lack of qualified personnel. Over the past several years, the Administration has continually refused to allow HUD to request adequate funds for field office personnel. This presumably has been done for budgetary reasons. As far as the housing programs are concerned, however, this represents both false economy and mythical budget cutting. This is because the operation of the FHA programs is chiefly funded out of fees and insurance premiums and costs the taxpayer nothing.

Even with adequate staffing, the HUD field office would be hard pressed to operate efficiently in view of the many reorganizations of the Department in recent years. As a result of this almost continuous reorganization, field office personnel totally inexperienced in FHA procedures and requirements have found themselves processing FHA applications, and employees experienced in FHA matters have wound up handling urban renewal or other HUD programs for which they have no training. Added to this unhealthy situation has been an even more serious change. The Assistant Secretaries in Washington, who are responsible for establishing program policy, have found themselves with no effective means of assuring that policies and regulations are followed by the field office. As a result, policy interpretations often vary from office to office. The confusion and resultant lessening of morale, from this relentless campaign to decentralize the Department, have finished the job that inadequate staffing began.

We urge the Subcommittee to concern itself with this obviously unhealthy situation. FHA has a definite and valuable role to play in helping to achieve our National Housing Goals, for both those who need subsidy and those who do not. It is a key part of the overall Federal housing strategy and must be preserved and strengthened. We will back strongly all efforts to achieve this. Along this line I have attached, as Exhibit "C", a resolution adopted by our Board of Directors, at our Convention in January, calling for the appropriate corrective actions.

URBAN DEVELOPMENT PROGRAMS

I would like to say a brief word about the urban development programs of HUD which have either been terminated, or are scheduled for termination on July 1. Housing cannot exist in a vacuum. It needs the infrastructure of roads, schools, parks and other governmental facilities which are necessary to establish a suitable environment. Therefore, we are disturbed by the termination of the urban renewal, water and sewer, model cities, open-space land, neighborhood facilities and other development programs of HUD.

We supported the consolidation of these programs into a single block grant program of the type passed by the Senate last year. We will continue to support similar legislation which establishes some priority as to how these substantial, but still limited, Federal funds are spent. However, we do not believe that the present programs should cease operating before the new program is enacted and put into being.

CONCLUSION

Let me reiterate that the home building industry believes that the proper Federal role in housing is the one which was clearly set out under the leadership of this Committee in the 1968 Housing Act. Furthermore, we are confident that on balance they are sound and effective instruments for performing that Federal role.

However, we do not in principle oppose the evaluation which the Administration has proposed. We do dispute the need to suspend operation of the programs pending such a review. We are, furthermore, concerned by recent speeches in which the Administration has stated its view that the "present program structure . . . cannot yield effective results." It scarcely promotes confidence in the objectivity of the proposed evaluation, to be informed that this major conclusion has been reached before the study has commenced.

Our organization has a fundamental commitment to the achievement in this decade of the National Housing Goal of a "decent home and a suitable living environment for every American family." We offer our support to the Congress, as well as to the Administration, in any evaluation or other activity designed to further the achievement of that objective.

Thank you for the opportunity to appear here today to make our views known.

EXTRACT FROM LAST HUD REPORT ON INCOME RECERTIFICATION UNDER SECTION 235

(Analysis of Recertification of Families Receiving Section 235 Benefits—January–March 1972)

This is the fourth study of Section 235 recertifications made in an effort to provide

management with information on some of the trends of this program. This study was based on recertifications received by the Division of Research and Statistics during the first quarter of 1972.

The study is based on a sample of 8,555 cases received during the period January–March 1972. Generally these cases represent replies from mortgagors whose mortgages were insured during the early part of 1970.

The salient point of this report is that six out of every 10 mortgagors recertifying income and family composition reported decreases in their subsidy payments, 24% were eligible for higher payments, and the remaining 15% were eligible to continue receiving the amount which was originally approved approximately two years ago. This finding was quite similiar to the data reported in the last report. However, while this appears to be quite favorable, there has been some deterioration in these relationships from prior report periods. For example, in the second report covering recertifications in mid-1971, 66% reported decreases in payment, while only 21% were reported to be eligible for increased subsidies. (Emphasis added).

DISTRIBUTION OF RECERTIFIED FAMILIES BY SUBSIDY AMOUNT FOR SELECTED PERIODS

[In percent]

Monthly subsidy	Date of original application [1]			
	January to March 1970	October to December 1969	May to September 1969	October 1968 to April 1969
Not eligible	3.6	4.9	8.0	10.2
Less than $30	21.3	15.9	18.3	18.1
$30 to $39	13.6	10.2	13.6	14.4
$40 to $49	15.5	16.7	16.0	16.2
$50 to $59	17.3	16.5	16.0	17.7
$60 to $69	14.6	18.8	15.7	14.5
$70 to $79	8.8	11.1	8.2	6.2
$80 to $89	3.7	4.0	2.6	1.6
$90 to $99	1.0	1.1	1.1	.8
$100 or more	.6	.8	.5	.3
Total	100.0	100.0	100.0	100.0

[1] Approximately 2 years prior to recertification.

The Table, shown above, indicates the general trend of the subsidy payment distribution over a period of slightly more than one year. In the earliest report period, 10.2% of the recertifying mortgagors had sufficient income to have their interest subsidy payment discontinued. However, subsequent reports showed that this proportion dipped to 8.0% by mid-year and then to 4.9% and down to 3.6% of the total for the current reporting period. This trend can be partially attributed to the sluggish national economic atmosphere which has involved higher unemployment and fewer opportunities for overtime and secondary or extra income. These conditions have had a greater impact on some of the lower-income classes using Section 235 since the unemployment rate for blue collar workers—heavy participators in this program—was about twice as high as for white collar workers and somewhat higher than the overall rate which has hovered around 6% in the recent past.

However, because it is quite evident from prior reports as well as being noted in this survey that those with relatively small initial subsidies have fairly good prospects of reporting a lower subsidy upon recertification, it is becoming more apparent that there may be an underreporting problem for those mortgagors who are no longer eligible for subsidy. For example, there is a high probability that most of the cases with continuing subsidy payments will be reported correctly because of the benefits accrued; but in the case where a mortgagor is no longer eligible, there may be some laxity in reporting. This indifference may be on the part of the mortgagor, servicer, or the field office in handling, processing and directing these cases into the reporting system. This may be especially true for the mortgagor who may not have any great interest in complying with regulations as he is no longer eligible for assistance at this time. It would be difficult to estimate the degree of underreporting but it should be recognized. Therefore, data shown for those who are no longer eligible should be used with discretion and probably should be considered as a conservative estimate of the true number until the question is resolved.

October 1972.

FORECLOSURE RATES BY AGE OF MORTGAGE

(From a HUD Staff Report)

TABLE I

Age of mortgage	Sec. 203b	Sec. 221(d)(2)	Sec. 235[1]
1	0.40	0.92	0.71
2	1.45	3.34	1.65
3	1.48	2.74	.73
4	1.25	1.81	
5	1.05	1.23	
6	.89	.81	
7	.73	.53	
8	.58	.33	
9	.43	.23	

[1] Excludes relatively large numbers of mortgage assignments.

[Note. Under the provisions of the 1968 Housing Act it is considerably easier to assign sec. 235 mortgages than those under the other single family programs. Under the assignment procedure these families may remain in the home and the opportunity exists for them to cure their defaults.]

The most comprehensive measure of foreclosure activity is not one number, but a series of numbers which relates the number of foreclosures to the age of the mortgage.

What is needed is the constant updating and promulgation of a table which gives the ratio of all foreclosures on mortgages which are one year old, two years old, etc., up to at least half the life of the typical term of the mortgage. This measure, presented by program, provides a more solid base for assessing program performance in terms of foreclosures.

This set of measures has many advantages. It allows for varying volumes of program activity. It incorporates historical activity. It shows comparative trends and exposes risks as they develop in the foreclosure cycle. Changes in these figures over short time spans could be very helpful in assessing program developments of a more sensitive nature.

The figures, as currently developed, only represent annual activity. They could be redesigned to be more sensitive to shorter term fluctuations by more precise and more frequent updating.

Although Table I represents foreclosure rates by age of mortgage annually, it still gives a better perspective for comparison across programs. For example, the table shows that these foreclosure rates for 221 mortgages are substantially higher in the early years than 203(b). At the same time, they are lower in the later years. The table also shows that foreclosures under the 235 program (for the three years it has been operating) are only slightly higher than 203(b).

The significance of this table and the approach it takes will become more important during 1973. The rapid increase in FHA operations during 1969, 1970, and early 1971 will mean that the high foreclosure rates of the early years of a mortgage will begin to operate. This means that the usual foreclosure rates will be distorted in the numerator because of the lagget (sic) effect of mortgage insurance in generating foreclosure.

Simultaneously, the share decrease in activity during 1972 will slow the growth in the denominator of the foreclosure rate, thus distorting that rate further. As a consequence, very high foreclosure rates and inventory buildups are likely to be reported. These figures should be viewed with caution.

HOUSTON, TEX,
January 7, 1973.

NAHB RESOLUTION—FHA PROGRAMS

Whereas, NAHB recognizes that a viable Federal Housing Administration is necessary to the continued effort to achieve the Nation's housing goals, and

Whereas, after careful review and analysis, NAHB has concluded that there is no justification for recommending that FHA be made a private corporation, and

Whereas, there may be merit in making FHA a completely separate and independent government agency it appears unlikely that this can be accomplished in view of the thrust of the President's proposed reorganization plans, and

Whereas, no institutionalized separation of subsidized and unsubsidized programs is necessary or warranted, and

Whereas, those deficiencies in FHA's programs can be corrected through more efficient management and allocation of personnel and NAHB cooperation with HUD in improving procedures,

Now, therefore, be it resolved that NAHB urge the new Secretary of HUD to consider and implement procedures and policies to improve FHA's operations so that FHA can perform successfully those functions which it has carried out for many years, and among these which would enable it to do so are:

1. Specific definition and delineation of the role of housing in HUD's overall organization;

2. Initiation of a processing program delegating most of FHA's appraisal and underwriting functions to the mortgage orginator, subject to HUD audit, and that NAHB clearly go on record as opposing any proposals which would establish FHA as a private corporation or provide for any institutionalized separation of FHA's subsidized and unsubsidized functions;

3. A change in current policy of decentralization to enable the central office to be responsible for the drafting, implementation, and interpretation of policy, and

4. Recognizing that FHA personnel are paid for in full from funds arising from its own operations, rather than the Federal Budget, FHA must at all times be assured of adequate personnel and that such personnel be deployed in a manner so as to expedite processing, thus avoiding extreme delays in the affirmative marketing, environmental impact procedures, and other processing.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

ORDER FOR ADJOURNMENT TO 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow.

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

ORDER FOR ADJOURNMENT FROM TOMORROW TO TUESDAY, APRIL 10, 1973

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business tomorrow, it stand in adjournment until 12 o'clock noon on Tuesday next.

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

ORDER FOR A PERIOD FOR THE TRANSACTION OF ROUTINE MORNING BUSINESS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders have been recognized under the standing order, there be a period for the transaction of routine morning business for not to exceed 1 hour with statments therein limited to 5 minutes.

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

Mr. ROBERT C. BYRD. Mr. President, while Senators may speak on tomorrow and introduce bills and resolutions, there will be no transaction of business except by unanimous consent. If there are measures on the calendar that have been cleared on both sides of the aisle, they could be acted upon by unanimous consent, but Senators are advised that there will be no transaction of business tomorrow that will require a yea-and-nay vote.

TRANSACTION OF ROUTINE MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, has an order previously been entered for the transaction of routine morning business today?

The PRESIDING OFFICER. The answer is "No"; there has not been.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that there now be a period for the transaction of routine morning business for not to exceed 1 hour, with statements limited therein to 3 minutes each.

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

COMMUNICATIONS FROM EXECUTIVE DEPARTMENTS, ETC.

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

REPORT ON PROPOSED CONSTRUCTION PROJECT FOR THE NAVAL RESERVE

A letter from the Deputy Assistant Secretary of Defense (Installations and Housing), reporting, pursuant to law, on the proposed construction of a project for the Naval Reserve, at New Orleans, La. Referred to the Committee on Armed Services.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to authorize further adjustments in the amount of silver certificates outstanding, and for other purposes (with accompanying papers). Referred to the Committee on Banking, Housing and Urban Affairs.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend section 27 of the Merchant Marine Act of 1920, to provide a monetary penalty for the transportation of merchandise in violation of the coastwise laws (with accompanying papers). Referred to the Committee on Commerce.

PROPOSED LEGISLATION FROM THE SECRETARY OF COMMERCE

A letter from the Secretary of Commerce, transmitting a draft of proposed legislation to foster fuller United States participation in international trade by the promotion and support of representation of United States interest in international voluntary standards activities, and for other purposes (with accompanying papers). Referred to the Committee on Commerce.

PROPOSED LEGISLATION FROM SECRETARY OF THE TREASURY

A letter from the Secretary of the Treasury, transmitting a draft of proposed legislation to amend the Internal Revenue Code of 1954 to permit the authorization of means other than stamps on containers of distilled spirits as evidence of tax payment (with accompanying papers). Referred to the Committee on Finance.

REPORTS OF COMPTROLLER GENERAL

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Need For More Effective Audit Activities", Office of Economic Opportunity, dated April 4, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

A letter from the Comptroller General of the United States, transmitting, pursuant to law, a report entitled "Effectiveness of Vocational Rehabilitation in Helping the Handicapped", Social and Rehabilitation Service, Department of Health, Education, and Welfare, dated April 3, 1973 (with an accompanying report). Referred to the Committee on Government Operations.

PROPOSED LEGISLATION FROM GENERAL SERVICES ADMINISTRATION

A letter from the Acting Administrator, General Services Administration, transmitting a draft of proposed legislation to establish a fund for activating authorized agencies, and for other purposes (with an accompanying paper). Referred to the Committee on Government Operations.

SUSPENSION OF DEPORTATION OF CERTAIN ALIENS

A letter from the Associate Commissioner, Immigration and Naturalization Service, Department of Justice, transmitting, pursuant to law, copies of orders suspending deportation of certain aliens (with accompanying papers). Referred to the Committee on the Judiciary.

REPORT ON HEAD START SERVICES TO HANDICAPPED CHILDREN

A letter from the Secretary of Health, Education, and Welfare, transmitting, pursuant to law, a report on head start services to handicapped children, dated March, 1973 (with an accompanying report). Referred to the Committee on Labor and Public Welfare.

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution adopted by the City Council of Norwood, Ohio, praying for the enactment of legislation regulating the importation of foreign-made goods to the country. Referred to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. MOSS, from the Committee on Commerce, without amendment:

S. 1165. A bill to amend the Federal Cigarette Labeling and Advertising Act of 1965 as amended by the Public Health Cigarette Smoking Act of 1969 to define the term "little cigar," and for other purposes (Rept. No. 93-103).

By Mr. THURMOND, from the Committee on Armed Services, without amendment:

S. 1493. An original bill to amend title 37, United States Code, relating to promotion of members of the uniformed services who are in a missing status (Rept. No. 93-104).

By Mr. CANNON, from the Committee on Armed Services, without amendment:

S. 1494. An original bill to amend section 236 of the Central Intelligence Agency Retirement Act of 1964 for certain employees to limit the number of employees that may be retired under such act during specified periods (Rept. No. 93-105).

EXECUTIVE REPORTS OF COMMITTEES

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

By Mr. MAGNUSON, from the Committee on Commerce:

Alfred Towson MacFarland, of Tennessee, to be an Interstate Commerce Commissioner;

Willard Deason, of Texas, to be an Interstate Commerce Commissioner;

A. Daniel O'Neal, Jr., of Washington, to be an Interstate Commerce Commissioner; and

Robert Timothy Monagan, Jr., of California, to be an Assistant Secretary of Transportation.

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

Mr. NUNN. Mr. President, as in executive session, from the Committee on Armed Services, I report favorably the nomination of Gen. Lewis Blaine Hershey, USA, to be placed on the retired list in that grade; the nomination of three rear admirals in the Navy to the grade of vice admiral; 42 captains for temporary promotion to rear admiral in the Navy; Vice Adm. John M. Lee, USN, for appointment to grade of vice admiral, when retired; the appointment of four to major general and 15 to brigadier general in the Air Force Reserve; Gen. Carlos M. Talbott, USAF, to be lieutenant general and Col. John P. Flynn, USAF, to temporary grade of brigadier general—to be retroactive to effective date of May 1, 1971—Col. David W. Winn, USAF, to temporary grade of brigadier general and in the Reserve of the Air Force four Air National Guard brigadier generals to be major general and 11 Air National Guard colonels to the grade of brigadier general. I ask that these names be placed on the Executive Calendar.

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

The nominations, ordered to be placed on the Executive Calendar, are as follows:

Brig. Gen. William H. Bauer, and sundry

other officers, for appointment in the Reserve of the Air Force, in the grade of majors general;

Col. William C. Banton II, and sundry other officers of the Air Force Reserve, for appointment in the Reserve of the Air Force, in the grade of brigadiers general;

Brig. Gen. Gordon L. Doolittle, and sundry other Air National Guard officers, for appointment in the Reserve of the Air Force, in the grade of majors general;

Col. John C. Campbell, Jr., and sundry other Air National Guard officers, for appointment in the Reserve of the Air Force, in the grade of brigadiers general;

Maj. Gen. Carlos M. Talbott (major general, Regular Air Force) U.S. Air Force, to be assigned to a position of importance and responsibility designated by the President, to be lieutenant general;

Col. John P. Flynn (colonel, Regular Air Force) U.S. Air Force, for temporary appointment to the grade of brigadier general in the U.S. Air Force;

Col. David W. Winn (colonel Regular Air Force) U.S. Air Force, for appointment to the temporary grade of brigadier general in the U.S. Air Force;

Gen. Lewis Blaine Hershey, Army of the United States (lieutenant colonel, U.S. Army), to be placed on the retired list in the grade of general;

Rear Adm. William R. St. George, U.S. Navy, for commands and other duties of great importance and responsibility determined by the President, for appointment to the grade of vice admiral while so serving;

Rear Adm. Walter D. Gaddis, U.S. Navy, for commands and other duties of great importance and responsibility determined by the President, for appointment to the grade of vice admiral while so serving;

Rear Adm. Robert B. Baldwin, U.S. Navy, for commands and other duties determined by the President, for appointment to the grade of vice admiral while so serving;

Vice Adm. John M. Lee, U.S. Navy, for appointment to the grade of vice admiral, when retired; and

Lando W. Zech, Jr., and sundry other officers, for temporary promotion to the grade of rear admiral in the Navy.

Mr. NUNN. Mr. President, in addition, there are in the Reserve of the Army 929 nominations in the grade of colonel and below—68 of which are Army National Guard; 930 appointments in the Army in the grade of lieutenant colonel and below; in the Navy there are 649 appointments in the grade of captain and below—14 of which are Reserve; and, in the Marine Corps and Marine Corps Reserves there are 526 appointments—temporary and permanent—in the grade of colonel and below. Since these names have appeared previously in the CONGRESSIONAL RECORD, in order to save the expense of printing on the Executive Calendar, I ask unanimous consent that they be ordered to lie on the Secretary's desk for the information of any Senator.

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

The nominations, ordered to lie on the desk, are as follows:

Kenneth W. Aichang, and sundry other officers, for promotion in the Reserve of the Army of the United States;

John E. Simpson, for reappointment in the active list of the Regular Army of the United States, from temporary disability retired list, to be lieutenant colonel, Regular Army and colonel, Army of the United States;

William O. Gentry, and sundry other persons, for appointment in the Regular Army of the United States;

Cory V. Perkins, and William G. Powell, distinguished military students, for appointment in the Regular Army of the United States;

John Phillip Abizaid, and sundry other cadets, graduating class of 1973, U.S. Military Academy, for appointment in the Regular Army of the United States;

David O. Aldrich, and sundry other Naval Reserve Officers Training Corps Candidates, for permanent assignment in the Navy;

David J. Acker, and sundry other Naval Enlisted Scientific Education Program Candidates, to be permanent ensigns in the Navy;

George P. Graf, and sundry other civilian college graduates, for permanent assignment in the Navy;

James O. Armacost, and sundry other Naval Reserve officers, for permanent assignment in the Navy;

Curtis J. Anderson, and sundry other Naval Reserve Officer Training Corps graduates, for permanent appointment in the Marine Corps;

Gregory M. Anthony, and sundry other U.S. Naval Academy graduates, for permanent appointment in the Marine Corps;

James M. Casey, and sundry other U.S. Air Force Academy graduates, for permanent appointment in the Marine Corps;

Ronald Achten, and sundry other officers, for temporary appointment in the Marine Corps;

Dennis M. Jackson, and sundry other U.S. Military Academy graduates, for permanent appointment in the Marine Corps; and

Robert J. Alfonso, and sundry other officers of the Marine Corps Reserve, for temporary appointment in the Marine Corps.

By Mr. YOUNG, from the Committee on Agriculture and Forestry:

Alfred Underdahl, of North Dakota, to be a Member of the Federal Farm Credit Board, Farm Credit Administration.

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

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON), from the Committee on Commerce:

Henry B. Turner, of California, to be Assistant Secretary of Commerce; and

C. Langhorne Washburn, of Virginia, to be Assistant Secretary of Commerce for Tourism.

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

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Michael P. Balzano, Jr., of Virginia, to be Director of ACTION;

Paul J. Fasser, Jr., of Virginia, to be an Assistant Secretary of Labor; and

William Jeffrey Kilberg, of New York, to be Solicitor for the Department of Labor.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

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

By Mr. ERVIN (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. BIBLE, Mr. BENTSEN, Mr. BROOKE, Mr. CASE, Mr. CLARK, Mr. CHURCH, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HATFIELD, Mr. HOLLINGS, Mr. MATHIAS, Mr. MCGOVERN, Mr. MONDALE, Mr. MOSS, Mr. PASTORE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. SCHWEIKER, and Mr. TALMADGE):

S. 1472. A bill to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements. Referred to the Committee on the Judiciary, by unanimous consent, then to the Committee on Foreign Relations, if and when reported.

By Mr. CRANSTON (for himself, Mr. HOLLINGS, Mr. TUNNEY, Mr. MCGEE, Mr. BENNETT, Mr. MOSS, Mr. GRAVEL, Mr. HATFIELD, Mr. INOUYE, and Mr. RANDOLPH):

S. 1473. A bill to amend the National Science Foundation Act of 1950 so as to provide for a research program relating to earthquakes. Referred to the Committee on Commerce.

By Mr. CRANSTON (for himself, Mr. HOLLINGS, Mr. TUNNEY, Mr. MCGEE, Mr. METCALF, Mr. KENNEDY, Mr. MOSS, Mr. GRAVEL, Mr. THURMOND, Mr. HATFIELD, Mr. INOUYE, and Mr. RANDOLPH):

S. 1474. A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada. Referred to the Committee on Commerce.

By Mr. PEARSON (for himself, Mr. MCGEE, Mr. METCALF, Mr. FANNIN, Mr. ALLEN, Mr. SCOTT of Pennsylvania, Mr. BENTSEN, Mr. STEVENS, Mr. YOUNG, Mr. BIBLE, Mr. RANDOLPH, Mr. THURMOND, Mr. DOMINICK, Mr. INOUYE, Mr. BAKER, Mr. BENNETT, and Mr. JAVITS):

S. 1475. A bill to amend the Internal Revenue Code of 1954 to allow a double investment credit for certain property placed in service in rural areas which will assist in providing new employment opportunities. Referred to the Committee on Finance.

By Mr. MOSS:

S. 1476. A bill to amend the Federal Trade Commission Act to prevent unfair competition in interstate commerce, and for other purposes. Referred to the Committee on Commerce.

S. 1477. A bill to provide for the issuance of a commemorative postage stamp in honor of the veterans of the Spanish American War. Referred to the Committee on Post Office and Civil Service.

By Mr. MAGNUSON (by request):

S. 1478. A bill to amend the Communications Act of 1934, as amended, with respect to commissioners and Commission employees. Referred to the Committee on Commerce.

S. 1479. A bill to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points. Referred to the Committee on Commerce.

S. 1480. A bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures. Referred to the Committee on Commerce.

S. 1481. A bill to amend section 1(16) of the Interstate Commerce Act authorizing the Interstate Commerce Commission to con-

tinue rail transportation services. Referred to the Committee on Commerce.

S. 1482. A bill to authorize appropriations for the Coast Guard for the procurement of vessels and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes. Referred to the Committee on Commerce.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. Moss, and Mr. CANNON):

S. 1483. A bill to amend the Export Trade Act. Referred jointly to the Committees on Commerce and the Judiciary by unanimous consent.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. Moss, and Mr. CANNON):

S. 1484. A bill to increase the recognition in Federal decisionmaking of international economic policy considerations. Referred to the Committee on Commerce.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. BEALL, Mr. CANNON, Mr. COTTON, Mr. LONG, and Mr. Moss):

S. 1485. A bill to establish an International Commerce Service within the Department of Commerce. Referred to the Committee on Commerce.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. Moss, and Mr. CANNON):

S. 1486 A bill to authorize the Secretary of Commerce to engage in certain export expansion activities, and for related purposes;

S. 1487. A bill to establish a Commission on Foreign Procurement Practices; and

S. 1488. A bill to provide for a system of uniform comomdity descriptions and tariffs filed with the Federal Maritime Commission. Referred to the Committee on Commerce.

By Mr. McGOVERN:

S. 1489. A bill to permit officers and employees of the Federal Government to elect coverage under the old-age, survivors, and disability insurance system. Referred to the Committee on Finance.

By Mr. McGOVERN (for himself and Mr. ABOUREZK):

S. 1490. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials. Referred to the Committee on Government Operations.

By Mr. JACKSON (by request):

S. 1491. A bill to amend the Organic Act of Guam. Referred to the Committee on Interior and Insular Affairs.

By Mr. HARTKE:

S. 1492. A bill to create a Senate Tax Reform Commission. Referred to the Committee on Finance.

By Mr. THURMOND:

S. 1493. A bill to amend title 37, United States Code, relating to promotion of members of the uniformed services who are in a missing status. Placed on the calendar.

By Mr. CANNON:

S. 1494. A bill to amend section 236 of the Central Intelligence Agency Retirement Act of 1964 for certain employees to limit the number of employees that may be retired under such act during specified periods. Placed on the calendar.

By Mr. SPARKMAN (for himself, Mr. TOWER, and Mr. WILLIAMS):

S. 1495. A bill to expand the National Flood Insurance Program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

By Mr. JAVITS (for himself and Mr. BUCKLEY):

S. 1496. A bill to establish the Van Buren-Lindenwald Historic Site at Kinderhood, N.Y., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

By Mr. TUNNEY (for himself and Mr. HART):

S. 1497. A bill to amend the Omnibus Safe Streets Act and to provide for an improved Federal effort to combat crime. Referred to the Committee on the Judiciary.

By Mr. METCALF:

S. 1498. A bill relating to the sale of certain timber, cord wood, and other forest products. Referred to the Committee on Interior and Insular Affairs.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ERVIN (for himself, Mr. ABOUREZK, Mr. BAYH, Mr. BIBLE, Mr. BENTSEN, Mr. BROOKE, Mr. CASE, Mr. CLARK, Mr. CHURCH, Mr. FULBRIGHT, Mr. GRAVEL, Mr. HART, Mr. HATFIELD, Mr. HOLLINGS, Mr. MATHIAS, Mr. McGOVERN, Mr. MONDALE, Mr. Moss, Mr. PASTORE, Mr. RANDOLPH, Mr. RIBICOFF, Mr. ROTH, Mr. SCHWEIKER, and Mr. TALMADGE):

S. 1472. A bill to help preserve the separation of powers and to further the constitutional prerogatives of Congress by providing for congressional review of executive agreements. Referred to the Committee on the Judiciary, by unanimous consent, then to the Committee on Foreign Relations, if and when reported.

Mr. ERVIN. Mr. President, I introduce for appropriate reference a bill to regulate international agreements, known as executive agreements, made with foreign nations on behalf of the United States.

I ask unanimous consent that the bill be referred, first, to the Committee on the Judiciary, where the Subcommittee on Separation of Powers will have a further opportunity to give a careful and definitive examination of the powers, duties, and prerogatives of the two branches of the Government in the area of international agreements.

After the Judiciary Committee has completed action on the measure, I ask unanimous consent that the bill be referred to the Committee on Foreign Relations.

The PRESIDING OFFICER. Without objection, the bill will be received and appropriately referred, as requested by the Senator from North Carolina.

Mr. ERVIN. I ask unanimous consent that my remarks appear in the RECORD at a point separate from the debate on the amendment of the Senator from Virginia.

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

THE ROLE OF THE CONGRESS IN THE MAKING OF EXECUTIVE AGREEMENTS

Mr. ERVIN. Mr. President, today I introduce a bill which will help restore the balance of power between the executive and legislative branches of the Government in the area of international agreements made with foreign nations on behalf of the United States.

Because of the momentous separation of powers issues in this area, I should like to ask unanimous consent that this measure be referred first to the Judiciary Committee, where its Subcommittee on Separation of Powers will be afforded an opportunity to give a careful and definitive examination of the powers, duties, and prerogatives of the two branches of the Government in the area of international agreements. After the Judiciary Committee has completed action on the measure, I should like to request that it be referred to the Committee on Foreign Relations.

In recent years, so-called executive agreements have been utilized time and time again in situations where many legal scholars believe that the treaty provisions of section 2, article II of the Constitution should have been followed. The Founding Fathers were, indeed, wise when they formulated the concept of shared powers between the legislative and executive branches in the making of international agreements. These learned men mentioned only one kind of international agreement in the Constitution: the treaty. From their bitter experience with tyrannical rule, they realized that a system of government serves the people best when its powers are disbursed among various repositories within the Government. They were acutely aware that unrestrained Executive power leads to despotism, and for that reason they attempted to make certain that the Congress, as the most direct representative of the people, would play a role in the making of international agreements. To my mind, this bedrock principle is not less important in this era of rapid change and computerization than it was in the simpler times when our Constitution was written.

The Subcommittee on Separation of Powers held hearings on this problem in April of 1972. Testimony at those hearings revealed that the use of executive agreements has grown both in scope and in number to an astonishing degree in the last few years while the practice of submitting treaties to the Senate for its advice and consent, as the Constitution requires, diminished both in number of treaties submitted, as well as the importance of subject matter of treaties submitted. This problem is more fully stated in the report of the Subcommittee on Congressional Oversight of executive agreements, which was released today. The use of executive agreements to bypass the treaty making provisions of the Constitution is one more example of usurpation of the constitutional powers of the Congress by the Executive.

This bill I introduce today is identical to a bill I introduced during the 2d session of the 92d Congress, S. 3475. The provisions of this bill are simple. It recognizes that the Founding Fathers' concept of shared powers in the area of international agreements has been substantially eroded by the use of so-called executive agreements. In plain language, the measure defines executive agreements and requires that the Secretary of State shall transmit each such agreement to both Houses of Congress. If, in the opinion of the President, the disclosure of any such agreement would be prejudicial to the security of the United States, the bill provides that it shall be transmitted to the Committee on Foreign Relations under an appropriate injunction of secrecy. Under this injunction of secrecy, only the Members of both

Houses of the Congress shall be permitted to inspect the document.

The bill further provides that each executive agreement transmitted to the Congress shall come into force and be made effective after 60 days—or later if the agreement so provides—unless both Houses pass a concurrent resolution expressing disapproval of the executive agreement between the date it is transmitted to the Congress and the end of a 60-day period. In other words, the Congress, in its shared-power role, will have an opportunity to state that it does not approve of an executive agreement during the 60-day period after the agreement is transmitted to the Congress.

To many, this measure may seem rather strict in its provisions; however, it appears to me that the executive branch of the Government would welcome a method whereby the Congress would share the responsibility for making international agreements which affect the international image of our Nation and its people, the allocation of our tax resources, and, in many instances, impinges upon the possibilities of achieving peace in the world.

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

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

S. 1472

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, Whereas the Constitution of the United States established a system of shared powers between the legislative and executive branches of the United States Government in the making of international agreements; and whereas, the Congress finds that its powers have been substantially eroded by the use of so-called executive agreements, and the Senate is thereby prevented from performing its duties under section 2, article II, of the Constitution, which provides that the President "shall have power, by and with the advice and consent of the Senate, to make treaties, provided two-thirds of the Senators present concur", and, whereas, the Congress is often prevented from participating in the conduct of foreign relations by way of prior statute on concurrent resolution, therefore be it enacted as follows:

SECTION 1. (a) In furtherance of the provisions of the United States Constitution regarding the sharing of powers in the making of international agreements, any executive agreement made on or after the date of enactment of this Act shall be transmitted to the Secretary of State, who shall then transmit such agreement (bearing an identification number) to the Congress. However, any such agreement the immediate disclosure of which would, in the opinion of the President, be prejudicial to the security of the United States shall instead be transmitted by the Secretary to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives under an appropriate written injunction of secrecy to be removed only upon due notice from the President. Each committee shall personally notify the Members of its House that the Secretary has transmitted such an agreement with an injunction of secrecy, and such agreement shall thereafter be available for inspection only by such members.

(b) Except as otherwise provided under subsection (d) of this section, any such executive agreement shall come into force with respect to the United States at the end of the first period of sixty calendar days of continuous session of Congress after the date on which the executive agreement is transmitted to Congress or such committees, as the case may be, unless, between the date of transmittal and the end of the sixty-day period, both Houses agree to pass a concurrent resolution stating in substance that both Houses do not approve the executive agreement.

(c) For the purpose of subsection (b) of this section—

(1) continuity of session is broken only by an adjournment of Congress sine die; and

(2) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day period.

(d) Under provisions contained in an executive agreement, the agreement may come into force at a time later than the date on which the agreement comes into force under subsections (b) and (c) of this section.

SEC. 2. For purposes of this Act, the term "Executive agreement" means any bilateral or multilateral international agreement or commitment, other than a treaty, which is binding upon the United States, and which is made by the President or any officer, employee, or representative of the executive branch of the United States Government.

SEC. 3. (a) This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and the House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of concurrent resolutions described by subsection (b) of this section; and it supersedes other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner and to the same extent as in the case of any other rule of that House.

(b) For the purposes of this section, "concurrent resolution" means only a concurrent resolution of either House of Congress, the matter after the resolving clause of which is as follows: "That the Congress does not approve the executive agreement numbered—transmitted to (Congress) (the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives) by the President on —, 19—.", the blank spaces therein being appropriately filled, and the appropriate words within one of the parenthetical phrases being used; but does not include a concurrent resolution which specifies more than one executive agreement.

(c) A concurrent resolution with respect to an executive agreement shall be referred to a committee (and all concurrent resolutions with respect to the same executive agreement shall be referred to the same committee) by the President of the Senate or the Speaker of the House of Representatives as the case may be.

(d) (1) If the committee to which a concurrent resolution with respect to an executive agreement has been referred has not reported it at the end of twenty calendar days after its introduction, it is in order to move either to discharge the committee from further consideration of the concurrent resolution or to discharge the committee from further consideration of any other concurrent resolution with respect to the executive agreement which has been referred to the committee.

(2) A motion to discharge may be made only by an individual favoring the concurrent resolution, is highly privileged (except that it may not be made after the committee has reported a concurrent resolution with respect to the same executive agreement), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(3) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other concurrent resolution with respect to the same executive agreement.

(e) (1) When the committee has reported, or has been discharged from further consideration of, a concurrent resolution with respect to an executive agreement, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion is highly privileged and is not debatable. An amendment to the motion is not in order, and it is not in order to move to reconsider the vote by which the motion is agreed to or disagreed to.

(2) Debate on the concurrent resolution shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing the resolution. A motion further to limit debate is not debatable. An amendment to, or motion to recommit, the concurrent resolution is not in order, and it is not in order to move to reconsider the vote by which the concurrent resolution is agreed to or disagreed to.

(f) (1) Motions to postpone, made with respect to the discharge from committee, or the consideration of a concurrent resolution with respect to an agreement, and motions to proceed to the consideration of other business, shall be decided without debate.

(2) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a concurrent resolution with respect to an executive agreement shall be decided without debate.

Mr. ROTH. Mr. President, I am pleased to join the distinguished senior Senator from North Carolina in cosponsoring legislation to help preserve the constitutional prerogatives of Congress in foreign policy by providing for congressional review of all executive agreements.

Since World War II, executive agreements have replaced treaties as the principal instrument of obligation in our relations with foreign governments. No doubt the increased use of executive agreements reflects the larger and more active American role in world affairs. At the same time, there have been numerous instances where, in the minds of our most renowned legal scholars, the use of executive agreement rather than treaty has been contrary to the letter and spirit of the Constitution which expressly provided for shared powers in the area of foreign policy. I can think of no one more distinguished and knowledgeable on this than Senator ERVIN himself, who has remarked that:

The most cursory reading of constitutional history reveals the intention of the Founding Fathers that the President was to be precluded from engaging in the making of any substantive foreign policy without the advice and consent of the Senate.

Because executive agreements are gen-

erally considered to be as binding as treaties in international law and because they are not now subject to any necessary congressional review, the use of executive agreement has been rightly challenged by those who fear the unfettered accretion of Presidential power. In the mid-1950's this challenge came from the supporters of the Bricker amendment who pointed out that the President could use such agreements to make or modify domestic law. More recently, the challenge has been from those who believe there is a need to curtail the Executive's free hand in foreign policy.

The crux of the problem is that there is a recognized need for executive flexibility and initiative in the foreign policy area, while at the same time there is a need to maintain the system of checks and balances that underly and guarantee our rights and liberties against any form of despotism. There is a need for Congress to have an opportunity to review those executive agreements which may expressly or implicitly contain important national commitments without making it mandatory for Congress to vote its approval of all the hundreds of such agreements made each year, many of which are directly pursuant to legislation or regulate the day-to-day administration of foreign relations without having policy implications.

Senator ERVIN's legislation would establish a definite procedure for referring every executive agreement to Congress. Congress would then, in essence, have a veto power over executive agreements. But if there were no challenge, the agreement would go into effect after 60 days in the absence of congressional action.

It seems to me that this is a most valuable and constructive proposal for insuring that the constitutional system of checks and balances is not eroded through the widespread or improper use of executive agreements. I hope that it as well as similar legislation in this area proposed by the distinguished senior Senator from New Jersey will be given thoughtful, careful appraisal by both the Congress and the President.

By Mr. CRANSTON (for himself, Mr. HOLLINGS, Mr. TUNNEY, Mr. MCGEE, Mr. BENNETT, Mr. MOSS, Mr. GRAVEL, Mr. HATFIELD, Mr. INOUYE, and Mr. RANDOLPH):

S. 1473. A bill to amend the National Science Foundation Act of 1950 so as to provide for research program relating to earthquakes. Referred to the Committee on Commerce.

By Mr. CRANSTON (for himself, Mr. HOLLINGS, Mr. TUNNEY, Mr. MCGEE, Mr. METCALF, Mr. KENNEDY, Mr. MOSS, Mr. GRAVEL, Mr. THURMOND, Mr. HATFIELD, Mr. INOUYE, and Mr. RANDOLPH):

S. 1474. A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada. Referred to the Committee on Commerce.

Mr. CRANSTON. Mr. President, I rise to introduce for appropriate reference two bills to provide for a national earthquake research program. These two bills are identical to S. 3173 and S. 3392, which I sponsored in the 92d Congress.

The first bill, identical to S. 3392, would authorize the National Science Foundation to establish and support a program to advance earthquake engineering research. It provides $30 million over a 3-year period for the development and implementation of such a program.

The second bill, identical to S. 3173, would assign to the U.S. Geological Survey in the Department of the Interior the responsibility for developing and implementing an earthquake prediction program. In addition, the Office of Emergency Preparedness would be authorized to assist in the development of an early warning system. The bill provides a total of $60 million for a 5-year program to develop an earthquake prediction program and $1 million for a 5-year program to develop an early warning system.

Mr. President, California, which is split by the San Andreas Fault, is aptly referred to as "earthquake country." Seismologists at Berkeley and at the Cal Tech Seismological Laboratory have been keeping track of earthquake activity in California for more than 40 years. Both groups have installed arrays of seismometers that telemeter seismic data to their laboratories for processing and dissemination to the appropriate public agencies. During the 36-year period between 1934 and 1969, there were more than 7,300 earthquakes with a Richter magnitude of 4 or greater in southern California and adjacent regions. Many thousands more earthquakes of smaller magnitude are routinely located and reported in the seismological bulletins. Although structural damage associated with earthquakes depends on varying local geological conditions and the nature of the particular earthquake, a rough rule of thumb is that a nearby earthquake of magnitude of 3.5 or greater can cause structural damage. The average annual number of earthquakes of magnitude 3 or greater in southern California recorded since 1934 is 210; the number in any one year has varied from a low of 97 to a high of 391. The strongest earthquake during this period was the 1952 Kern County earthquake which had a magnitude of 7.7.

Experts believe that they are close to being able to predict the time, place, and magnitude of earthquakes. I believe it is absolutely essential to place the highest priority on research programs designed to refine our prediction capability. Hopefully, with increased research dollars and resources, we can refine this capability sufficiently to warn the population of a major population center, such as San Francisco or Los Angeles, before an earthquake strikes. If a strong earthquake were to strike San Francisco during the business day, it is possible that up to 100,000 deaths and injuries could occur. Property damage would be astronomical. If the city were warned in advance, however, steps could be taken to evacuate people from the most hazardous areas and to take action to mitigate fire and other postearthquake hazards. I believe that $60 million over a 5-year period is a small price to pay for the potential savings in lives and property that would result from an earthquake prediction capability.

Scientists at the U.S. Geological Survey's Center for Earthquake Research in Menlo Park, Calif., have recently predicted an earthquake in a rural area south of San Francisco, near Hollister, which straddles the San Andreas Fault. Four moderate earthquakes—magnitude 5.0, 4.7, 4.0, 4.0—have occurred along this segment of the fault since December 1971. Subsequent monitoring of the aftershocks of these moderate earthquakes has shown that a gap exists between the two active sections in this area of the fault, leading the USGS to predict an earthquake of magnitude 4.5 within the next several months.

In addition to developing an earthquake prediction capability, there is much to be done to promote earthquake research. Earthquake engineering is a relatively recent development; the first building code to enforce earthquake-resistant design in the United States was established in California following the destructive Long Beach earthquake in 1933. The original code requirements were rudimentary by present-day standards, and as new knowledge was developed by research and by study of earthquake damage, improvements in the codes have been made over the years. The collapse of a new six-story apartment building in Anchorage during the 1964 earthquake and the collapse of several new school buildings in Japan during the 1968 Tokachi-Oki earthquake provide graphic evidence of the need for further improvements in earthquake engineering.

As the population of the country grows, earthquake hazards increase. This is true not only in the more seismic areas, but also in the central and eastern portions of the country which, contrary to popular belief, also have earthquake problems. The National Science Foundation has estimated that 35 percent of the U.S. population—some 72 million—live in areas throughout the Nation that can expect somewhat regular earthquakes strong enough to cause structural damage. In the future there will be more people to be injured and killed and more works of man to be damaged. It will be important to the welfare of the Nation that new construction, which is currently at a rate exceeding $70 billion a year, be so engineered as to minimize injuries and deaths, to keep monetary losses to acceptable levels, and to avoid serious inconvenience to the public. To achieve these ends will require a program of earthquake engineering research aimed at providing basic information on destructive earthquakes, developing knowledge of the dynamic behavior of structure and soils, obtaining data on the physical properties of materials and developing practical and efficient methods of analysis and design. The socioeconomic problems of earthquakes must also be studied in depth.

Destructive earthquakes range in mag-

nitude from approximately 5.0 to 8.5. Each year, on the average, over 700 shocks of magnitude 5.0 or greater occur in the seismic areas of the world. More than 90 earthquakes of 6.0 or greater occur each year. A magnitude 6.0 shock can give a maximum ground acceleration on the order of 20 percent of gravity, which can be very damaging. Long Beach, Calif., for example, was severely damaged by a magnitude 6.2 shock on March 10, 1933. On the average, 12 earthquakes occur each year with magnitudes of 7.0 or greater. Such large shocks have potential for major disasters, such as San Francisco, 1906; Tokyo, 1923; Chile, 1960; Alaska, 1964; and Niigata, Japan, 1964. Approximately 1 to 2 percent of the world's earthquakes occur in the United States, so that during a 10-year period we can expect about 70 shocks of magnitude 5.0 or greater, 10 shocks of magnitude 6.0 or greater, and 1 shock of magnitude 7.0 or greater.

In view of the potential impact of destructive earthquakes on public safety and welfare, and the expected increase of population and investment in construction, I am convinced that we must embark upon a strong program of research aimed at solving the major problems of safety and economy posed by the occurrence of earthquakes.

In the absence of proper engineering precautions, damage from large earthquakes or even from nearby smaller shocks may be almost total. Such destruction was experienced by the city of Agadir, Morocco, in 1960 with over 10,000 lives lost out of a total of 30,000. Earthquakes in the United States have not been so destructive, because most of them have not been near cities and also because buildings in this country are of better construction. It is the objective of earthquake engineering to minimize deaths, injuries, social disruption, and economic losses that result from earthquakes. The degree to which this can be done depends primarily on the state of knowledge and secondarily on the initiative and degree or organization with which the knowledge is applied.

Mr. President, the two bills I am introducing today offer an opportunity to embark on a substantial research program designed to minimize loss of life and property which would result from an earthquake. Senator HOLLINGS also introduced a bill this week which would establish a national earthquake research program. It is our hope that, on the basis of field hearings in California at the end of April and on the basis of further study of the three bills, that we can together produce legislation to accomplish our mutual goals.

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

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

S. 1473

A bill to amend the National Science Foundation Act of 1950 so as to provide for a research program relating to earthquakes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 3(a) of the National Science Foundation Act of 1950 is amended (1) by deleting the word "and" at the end of paragraph (6); (2) by deleting the period at the end of paragraph (7) thereof and inserting in lieu thereof a semicolon and the word "and"; and (3) by adding immediately after paragraph (7) thereof the following new paragraph: "(8) (A) to establish and support a program which shall—

"(i) advance earthquake engineering research;

"(ii) develop more accurate and reliable methods of earthquake resistant analysis and design for all types of structures and for a variety of ground conditions;

"(iii) develop improved minimum criteria of earthquake-resistant construction, measuring the cost of protection against the benefit of damage and loss of life prevented, for all types of structures and for a variety of ground conditions, with priority given to dams, hospitals, schools, public utility and public safety structures, high-occupancy buildings necessary to emergency operations, and other structures especially needed in time of disaster; and

"(iv) develop improved methods, based upon the seismological characteristics of the area, of assessing the earthquake risk at all types of locations in populated areas of high seismic risk, and of establishing land use priorities designed to reduce the hazards from earthquakes.

"(B) Such program established pursuant to subparagraph (A) shall include—

"(i) measurement and analysis of ground motion during earthquakes;

"(ii) analysis of soil behavior and influence of local geologic features during earthquakes;

"(iii) measurement and analysis of dynamic properties and behavior of structures during earthquakes;

"(iv) development of instruments useful in such program;

"(v) laboratory and field experiments, analytical techniques, and mathematical and computerized methods of analysis which support such program;

"(vi) analysis of tidal wave action and development of appropriate countermeasures;

"(vii) development of a sufficient number of trained personnel to support such program;

"(viii) development of effective means to disseminate the methods of structural analysis and design, criteria of construction, and methods of assessing earthquake risk developed pursuant to such program to public and private groups engaged in engineering construction, architecture, construction planning, and land use planning; and

"(ix) postearthquake studies and investigations of the effects of earthquakes which are relevant to engineering design, earthquake engineering research, or any other purposes consistent with such program.

"(C) The Foundation is directed to report annually to the President and the Congress on the implementation of the program provided for in this paragraph. The Foundation is directed to make the methods of structural analysis and design, the criteria of construction, and the methods of assessing earthquake risk maps developed pursuant to such program available to the Governors in States in seismic risk areas, the General Services Administration, the Department of Housing and Urban Development, the National Bureau of Standards, the Department of Defense, the Bureau of Reclamation, the Atomic Energy Commission, the National Oceanic and Atmospheric Administration, the Forest Products Laboratory, Geological Survey, and other government and private organizations which have an interest in construction and land use planning."

SEC. 2. Section 16 of the National Science Foundation Act of 1950 is amended by adding at the end thereof the following:

"(c) To enable the Foundation to carry out its powers and duties under section 3(a) (8) of this Act, there is authorized to be appropriated to the Foundation for the fiscal year ending June 30, 1974, the sum of $10,000,000; for the fiscal year ending June 30, 1975, the sum of $10,000,000; and for the fiscal year ending June 30, 1976, the sum of $10,000,000."

S. 1474

A bill to provide a sound physical basis and an operational system for predicting damaging earthquakes in heavily populated areas of California and Nevada

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) this Act may be cited as the "Earthquake Prediction Act of 1972."

(b) The Congress hereby finds and declares that the San Andreas fault and closely related faults of California and Nevada are areas of high seismic risk, that 9.8 per centum of the population of the United States lives in California, that the highly developed urban areas of San Francisco and Los Angeles and their surroundings are especially vulnerable to the dangers of earthquakes, that Japanese scientists have issued earthquake warnings, and that seismic research in the United States is sufficiently advanced that an earthquake prediction capability can be achieved with an earthquake prediction program. To minimize loss of life and property damage, the Congress hereby declares that it is its purpose to establish a program of instrumentation of the San Andreas and closely related faults of California and Nevada; to provide for the collection, analysis, and interpretation of data from such instrumentation; and to provide supporting field, laboratory, and theoretical studies leading to the goal of predictions of earthquakes along the San Andreas fault zone.

SEC. 2. (a) It shall be the function and duty of the Director of the Geological Survey to develop and carry out an earthquake prediction program which shall include—

(1) heavy instrumentation of the San Andreas fault and closely related faults of California and Nevada to obtain detailed records of data useful in developing an earthquake prediction capability;

(2) establishment of facilities for the collection and computerized reduction, analysis, and interpretation of the data flow from such instruments;

(3) supporting field, laboratory, and theoretical studies; and

(4) development and field-testing of additional instruments which are useful in connection with the foregoing provisions of this section.

In carrying out that part of such program involving or relating to research purposes, and in expending a significant portion of the funds appropriated pursuant to this Act for such program, the Director shall utilize the services of reseach personnel in institutions of higher education and public entities or organizations (other than Geological Survey) and private entities or organizations concerned with seismic research.

(b) (1) There is hereby established an advisory committee for the earthquake prediction program (hereinafter referred to as the "advisory committee"). The advisory committee shall consist of not less than seven nor more than fifteen members who shall be appointed by the Director of the Geological Survey from among individuals recommended by the National Academy of Sciences. The advisory committee shall select a chairman and vice chairman from among its members.

(2) It shall be the function of the advisory committee to advise and assist the Director in developing and carrying out the earthquake prediction program provided for in subsection (a).

SEC. 3. (a) The Director of the Office of Emergency Preparedness is authorized to establish and carry out a program to review

and assess the current state of knowledge on earthquake prediction and the warning systems, to identify key problem areas for further research and evaluation, and to determine what additional steps may be needed to reduce primary and secondary losses from earthquakes. Such review and assessment shall include—

(1) a forecast of the problems expected to be associated with the issuance of earthquake warnings to the population residing in high seismic risk areas;

(2) an analysis, prepared prior to the issuance of earthquake warnings, of steps which should be taken to make such warnings effective, and of how to make the decision to issue the warnings;

(3) an analysis, prepared prior to the occurrence of an earthquake, of the physical effect of an earthquake; and

(4) an analysis, prepared prior to the occurrence of an earthquake, of the behavioral and psychological effects of an earthquake.

(b) The Director of the Office of Emergency Preparedness is authorized to enter into contracts, agreements, or other appropriate arrangements with the National Academy of Sciences to provide such necessary scientific advisory services as may be required in carrying out the purposes of this section.

SEC. 4. The President of the National Academy of Sciences and the Director of the Office of Emergency Preparedness shall make information developed pursuant to this Act available to the Office of Science and Technology, the Congress, Governors in States of high seismic risk, and other government and private organizations which are concerned with preparations for or reactions to earthquakes or earthquake warnings.

SEC. 5. (a) For purposes of section 2 of this Act, there is authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next following four fiscal years, the sum of $12,000,000.

(b) For purposes of sections 3 and 4 of this Act, there is authorized to be appropriated for the fiscal year ending June 30, 1974, and for each of the next following four fiscal years, the sum of $200,000.

By Mr. PEARSON (for himself, Mr. MCGEE, Mr. METCALF, Mr. FANNIN, Mr. ALLEN, Mr. SCOTT of Pennsylvania, Mr. BENTSEN, Mr. STEVENS, Mr. YOUNG, Mr. BIBLE, Mr. RANDOLPH, Mr. THURMOND, Mr. DOMINICK, Mr. INOUYE, Mr. BAKER, Mr. BENNETT, and Mr. JAVITS):

S. 1475. A bill to amend the Internal Revenue Code of 1954 to allow a double investment credit for certain property placed in service in rural areas which will assist in providing new employment opportunities. Referred to the Committee on Finance.

RURAL JOB AND BUSINESS DEVELOPMENT ACT

Mr. PEARSON. Mr. President, I introduce today the Rural Job and Business Development Act of 1973. This bill would provide for an additional 7 percent investment credit on certain job-creating enterprises locating in rural areas. Those eligible enterprises under this act in addition to the basic 7 percent investment credit now in effect would receive an additional 7 percent for a total credit of 14 percent.

The objective here is to encourage the further decentralization of business and industrial growth; specifically to encourage the growth of job-creating industries in communities of under 50,000. The additional 7 percent tax credit on new investment would provide such an incentive and would, I believe, contribute to the overall goal of rural development and balanced national growth.

The investment tax credit was reinstated in 1971, because the Congress recognized that investment tax credits do serve to stimulate the economy and encourage the creation of new jobs. The proposal simply extends that principle and says let's use the proven technique to stimulate the creation of new jobs in rural areas and otherwise strengthen the rural sector. This is not, however, simply a rural proposal for we have recognized for some years now that we are suffering from an imbalance in the geographic distribution of people and industry in this country. Too many of our cities are overcrowded, too many of our rural areas are underdeveloped. As a result we suffer economic inefficiency and social inequities at both ends of the population scale.

Congress has recognized the necessity of seeking to promote a more balanced national growth. This commitment is spelled out rather clearly in title IX of the Agricultural Act of 1970 and title IV of the Housing and Urban Development Act of 1970.

The economic and social development of our rural communities is a vital, indeed a fundamental part, of the overall goal of balanced national growth. We must expand economic and social opportunities in rural areas in order to achieve a more sensible distribution of future population and economic growth increments. If we do not do this, the vast majority of our people will become concentrated in a handful of giant megalopolitan corridors. Such concentration does not make good sense either economically or socially. And if public opinion polls have any validity it is apparent that the majority of the people prefer that this not happen. The polls have consistently shown that the majority of our people would prefer to work and rear their families in smaller communities.

Mr. President, the goal of rural development and balanced national growth will not be achieved overnight. We must proceed on many fronts. We urgently need more sophisticated and comprehensive multicounty and regional structures. We need an improved system of available credit in rural areas. We need better programs for rural housing, water and sewer, and other public services. We need better health care facilities in rural areas. We need a new transportation system.

It is also clear that one of the key elements of rural development is the creation of new job opportunities. We need greater capital investment in rural America. Unless we can do this not much else that we can do will have any long-range effect on the development of our rural communities.

The Rural Development Act of 1972 was an extremely important piece of legislation and if fully implemented would do a great deal to help strengthen our rural community infrastructures and also serve to stimulate the development of jobs in rural areas.

But it would seem to me that it is a great mistake to assume that the Rural Development Act of 1972 is all that is needed. This was a strong step forward, but it is only one step of many that must be taken. And, of course, we face the immediate problem now of securing from the administration a strong commitment to implement the Rural Development Act to its fullest degree.

Mr. President, one of the additional steps that it seems to me we should take is the adoption of the Rural Job and Business Development Act which I propose today. This is a rather modest proposal. Its enactment will not initiate an economic revolution, nor result in a massive drain on the Public Treasury. But the additional investment tax credit offered in this bill will serve to encourage the establishment of more job-creating industries in our rural communities, and it will do this without requiring the establishment of a massive bureaucracy or additional Federal intervention in State or local affairs.

The bill, as indicated earlier, would provide an additional 7-percent investment tax credit for job-creating industries and businesses locating in rural communities. The same rural definition as was adopted in the Rural Development Act of 1972, that being communities of under 50,000, with the exception that communities of less than 50,000 which are within an urbanized area adjacent to large metropolitan areas and which have a population density of more than 100 persons per square mile, would be excluded.

The additional tax credit provided by this bill would not be made available to all types of investments, but only in the cases where it can be demonstrated that employment opportunities in the rural community will be improved because of the investment.

Mr. President, I ask 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. 1475

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 "Rural Job and Business Development Tax Act of 1973".

SEC. 2. (a) Section 46(c) of the Internal Revenue Code of 1954 (relating to qualified investment) is amended by adding at the end thereof the following new paragraph:

"(5) Rural job development property.—

"(A) In the case of section 38 property which is rural job development property, the qualified investment shall be twice the amount determined under paragraph (1).

"(B) For purposes of subparagraph (A), the term 'rural job development property' means property which is used predominantly in one or more rural areas and with respect to which the taxpayer establishes, under regulations prescribed by the Secretary or his delegate, that—

"(i) such property will assist in providing new employment opportunities in the rural area or areas in which it is used,

"(ii) such property will be used in the manufacture, processing, assembling, or distribution of personal property (other than in a business consisting primarily of selling or leasing property at retail), or in connection with, or a part of, a facility providing recreation to the public which is not inconsistent with State recreation plans, ap-

proved by the Bureau of Outdoor Recreation, and with local economic development plans, and

"(iii) the new employment opportunities in the rural area or areas which will be assisted by such property will not result in a decrease in employment in any other area.

"(C) For purposes of subparagraph (B), the term 'rural area' means any area in the United States that is not within the outer boundary of any city having a population of 50,000 or more and is not within any urbanized or urbanizing area with a population density of more than 100 persons per square mile (determined according to the most recent data available from the Bureau of the Census) which is immediately adjacent to any such city. Such term also means any area comprising an Indian reservation."

(b) The amendment made by subsection (a) shall apply only with respect to property placed in service after the date of the enactment of this Act.

By Mr. MOSS:

S. 1476. A bill to amend the Federal Trade Commission Act to prevent unfair competition in interstate commerce, and for other purposes. Referred to the Committee on Commerce.

UNFAIR COMPETITION ACT

Mr. MOSS. Mr. President, the law of unfair competition deals with the copying, imitation, or other utilization by one businessman of another businessman's product, design, packaging, trade name, or other merchandising practices. It deals also with false or misleading statements made in connection with the sale of goods or services, such as those praising one's own or disparaging a competitor's products.

This is a body of common law, developed primarily by the courts on a case-by-case basis. Prior to the decision of the Supreme Court in *Erie R.R. Co.* v. *Tompkins*, 304 U.S. 604 (1938), the Federal courts followed federally developed rules in this area; but since that decision, the Federal courts have been required to apply the body of State unfair competition law applicable in the place where the Federal court sits. Many have argued that the various State courts have applied different standards of law in this area, so that the result of the Erie decision is that the law of unfair competition has become extremely nonuniform in application, during a period when business activities in our society have tended to become more and more interstate in character. The result is that businessmen are unable to know what law will be applied to their merchandising practices, for goods which they can lawfully sell in one State may subject them to civil liability or even criminal punishment in another. Not only does this result in undesirable lack of certainty in regularity for businessmen, but it brings about a great deal of undesirable forum shopping in litigation. The latter has become a problem of administration of the Federal courts, as well as of the State courts, because unfair competition cases can usually be brought in a Federal court under diversity jurisdiction or under the doctrine of pendent jurisdiction.

The purpose of the proposed Unfair Competition Act is to rescue interstate business firms from this checkerboard of different State regulations, so that they may use the same designs, packages, or other product configurations in all of the States in which they operate. At the same time, a uniform law will bring about a more orderly administration of the Federal court system. The proposed legislation is drafted as an amendment to the Federal Trade Commission Act (15 U.S.C., sections 41–58), which already prohibits unfair methods of competition by making an administrative agency responsible for their prevention when the effect of such practices is substantially injurious to the public. The purpose of this legislation is to supplement the provisions of the Federal Trade Commission Act by creating a uniform private legal remedy against unfairly competitive acts against which injunctive or damages relief is appropriate.

SUMMARY OF BILL

The bill adds a new section 19 to the end of the Federal Trade Commission Act, defining and providing private remedies for unlawful and unfair competition, just as public agency action against unfair methods of competition and unfair acts and practice is the subject matter of the main portion of the Federal Trade Commission Act.

Subsection (a) of section 19 defines unlawful and unfair competition as conduct which, first, results or is likely to result in palming off one person's goods or services for those of another, by deceptively imitative acts or practices; second, materially and falsely disparages other firms' goods or services; or third, misrepresents goods or services.

Subsection (b) provides the applicable remedies. Paragraph 1 permits any businessman injured by unlawful and unfair competition to bring a civil action in any appropriate U.S. District Court. Paragraph 2 permits injunctions to be granted, in accordance with the principles of equity, to prevent intentional violations of the act. This paragraph guarantees, however, that nondeceptive activities shall not be prohibited or otherwise punished and that there shall not be imposed any prior restraint on free speech. Paragraph 3 permits businessmen injured by intentional violations of the act to recover their actual damages. Paragraph 4 provides a 4-year statute of limitations.

Subsection (c) provides that the law and remedies of the Unfair Competition Act shall govern conduct in or affecting commerce so that businessmen will be assured against being subjected to nonuniform regulations in different forums.

The intention of this legislation is to exercise to the fullest constitutional extent the Congress' power under the commerce clause. The bill subjects to the act all unfair competition in or affecting commerce, protects all persons engaged in or whose activities affect commerce against unfair competition, and establishes a uniform law with regard to such conduct.

The legislation would codify the common law of unfair competition as it has previously been developed in the decisions of the Federal courts. To the extent, therefore, that there may be any ambiguity in language or uncertainty as to interpretation, the proposed legislation should be construed in accordance with such decisions. This reflects a recognition that the law of unfair competition has developed on a case-by-case basis and by a process of generalization from previous judicial experience. The law thus reflects the landmark decisions of the Federal courts, such as *Cresscent Tool Co.* v. *Kilborn & Bishop Co.*, 247 Fed. 299 (2 Cir. 1917); *Shredded Wheat Co.* v. *Humphrey Cornell Co.*, 250 Fed. 960 (2 Cir. 1918); *Durable Toy & Novelty Corp.* v. *Achein & Co.*, 133 F. 2d 853 (2 Cir. 1943), *cert. denied*, 320 U.S. 211 (1940); *National Comics Publications, Inc.* v. *Fawcett Publications, Inc.*, 191 F. 2d 594 (2 Cir. 1951); *Application of Deister Concentrator Co.*, 289 F. 2d 496 (C.C.P.A. 1961); *Kellogg* v. *National Biscuit Co.*, 305 U.S. 111 (1938); *Sears, Roebuck & Co.* v. *Stiffel Co.*, 376 U.S. 225 (1964); *Compco Corp.* v. *Day-Brite Lighting, Inc.*, 376 U.S. 234 (1964).

Section 2 of the bill adds a new section 19(a)(1) to the Federal Trade Commission Act, which defines as unlawful and unfair competition any act, practice, or course of conduct, in or affecting commerce, which results or is likely to result, in one businessman's "passing off" his goods or services for those of another. "Passing off" is defined more specifically as conduct involving copying or other imitation or utilization of the appearance of the other businessman's product—such as copying its packaging, design, or other product configuration. Such conduct may also involve similar utilization of the trade name or of another merchandising practice of the other businessman. The claimant must establish by a preponderance of the evidence, however, that the public has come to associate the copied thing with a particular source of goods or services and that the members of the public—or other customers—are likely to buy the goods of the imitator by mistake, because they think they are getting the original article which they actually want. Conduct of this type was generally prohibited by the common law, as reflected by the decisions of both State and Federal courts. See, for example, *Armstrong Paint & Varnish Works* v. *Nu-Enamel Corp.*, 305 U.S. 315, 336 (1938); *William R. Warner & Co.* v. *Eli Lilly & Co.*, 265 U.S. 526, 531–32 (1924).

On the other hand, the courts have also recognized the importance to competition of not interfering with the copying of unpatented and uncopyrighted features of articles, where those features do not cause any deception of the public. When one manufacturer copies another's packaging or product, the copied element may serve any or all of the following functions: First, it may help carry out the purpose to be served by the product in the hands of the consumer or have functional utility; second, it may indicate to the purchaser the nature of the product, as with a descriptive designation such as "thermos bottle" on the label; or third, it may indicate to the customer the source of the product. The last quality is what this provision of the legislation protects by creating a private right of action, but the law also prevents

any interference with the public's enjoyment of the first two qualities. There is a well-developed body of common law adjusting these competing interests to secure maximum benefits to the public and the business community, and the proposed legislation seeks to adopt that body of law. The Federal decisions cited above, in the discussions of section 1 of the act, embody this approach.

Section 19(a)(2) prohibits the disparagement of one's competitors' goods or services by a materially false statement. Truthful disparagement, however, is protected by the first amendment and is not prohibited. Moreover, to be actionable, the false disparagement must be shown to have been directed to actual customers or to persons who are prospective customers so that mere injured feelings do not give rise to a Federal case.

Section 19(a)(3) prohibits materially false and misleading statements, or the omission of material information, about one's own or another's goods. Again, the deception must be concretely directed to actual or prospective customers. This provision allows a private party to recover damages for his injuries that are caused by conduct which amounts to a violation of the deceptive practices provisions of section 5 of the Federal Trade Commission Act. However, the requirements of this section are more stringent than those of section 5 of the Federal Trade Commission Act in that they deal only with hard-core deceptive practices and not borderline conduct.

Section 19(b) defines the remedies available under the Unfair Competition Act. Paragraph (1) of section 19(b) permits any businessman who is actually injured by conduct forbidden in section 19(a), or who is likely to be injured by conduct forbidden in section 19(a), or who is likely to be injured by "passing off" conduct, to bring a civil action in the appropriate district court. The appropriate district court is that defined by the venue provisions of the Judicial Code (28 U.S.C. section 1391). Paragraph (2) permits injured businessmen to seek injunctions against intentional violations of the act. Injunctions must be granted in accordance with the principles of equity, however, which is a requirement also of the Patent Code (35 U.S.C. section 283); and the claimant must show that an injunction is necessary to prevent actual damages from occurring to him. As indicated in the decision of the U.S. Supreme Court in the Compco case, supra, nondeceptive copying may not be prohibited; and this legislation requires only that reasonable steps should be taken by the defendant.[1] All nondeceptive copying and other nondeceptive activities are protected by this provision because of their importance to maintaining free competition. Moreover, in accordance with the first amendment, this provision prohibits the imposition of any prior restraint on free speech. Paragraphs (3) and (4) of this subsection permit injured businessmen to recover the actual damages that they have sustained by reason of an intentional violation of the act and establish a 4-year statute of limitations.

Section 19(c) of the new law makes its provisions the uniform and governing law in the field with which it deals. This provision insures businessmen the freedom to market their goods and services with the knowledge that they may carry on their activities on a uniform basis throughout the Nation without being subjected to inconsistent regulatory provisions. If products may lawfully be sold under the Unfair Competition Act in Maine, then the same will be true in California or Alaska. In that way, manufacturers of goods will be enabled to ship them freely in commerce throughout the Nation without fear of being subjected to legal liability or even criminal punishment in some States because of conduct of the type covered by this law, which is perfectly permissible in the other States. There is a proviso in this section, however, that preserves the continuing applicability of the Federal patent, copyright, and trademark laws which also prohibit certain types of copying, imitation, or utilization of competitors' products or merchandising practices and which places outside the protection of the act conduct which is punishable as theft.

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

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

S. 1476

Be it enacted by the Senate and House of Representatives of the United tSates of America in Congress assembled, That this Act may be cited as the Unfair Competition Act of 1973.

SEC. 2. The Act entitled "An Act to create a Federal Trade Commission, to define its powers and duties, and for other purposes," approved September 26, 1914, as amended (15 U.S.C., sections 41–58) is hereby amended by adding at the end thereof a new section, to read as follows:

"SEC. 19. (a) Any person shall be deemed to have engaged in unlawful and unfair competition, if he engages in any act, practice, or course of conduct, in or affecting commerce, which—

"(1) results, or is likely to result, in passing off goods or services which he offers as or for those of any other person, by reason of his copying or otherwise imitating or utilizing the product configuration, packaging, trade name, or other merchandising practice of such other person in the following circumstances:

(A) actual or prospective purchasers of such goods or services have come to associate such copied or otherwise imitated or utilized product configuration, packaging, trade name, or other merchandising practice with a particular source, whether or not identifiable to them by a particular name; and

(B) such source association substantially affects the decision of such purchasers to buy such goods or services because they intend to buy those emanating from that source rather than another;

"(2) materially and falsely disparages another person's goods or services to actual or prospective purchasers thereof; or

"(3) by a materially false or misleading statement, or by the omission of material information, misrepresents his or another person's goods or services, to actual or prospective purchasers thereof.

"(b)(1) Any person injured in his business by unlawful and unfair competition as defined in subsection (a) of this section, or likely to be injured by unlawful and unfair competition as defined in subsection (a)(1) of this section, may bring a civil action for relief as provided by paragraphs (2) and (3) of this subsection, in any district court of the United States having jurisdiction of the person who has committed such unlawful and unfair competition.

"(2) Any person who establishes that he has been injured or is likely to be injured, as set forth in paragraph (1) of this subsection, may be granted an injunction, in accordance with the principles of equity, to prevent violation of subsection (a) of this section upon his establishing that such injunction is necessary to prevent actual and continuing damage. Such injunction may require the labeling of goods or the taking of other precautions to prevent the misleading or deception of customers as to the source of goods or services, to the extent that such steps are reasonable and practical. Nondeceptive copying or other nondeceptive activities shall not be prohibited or otherwise punished (except as otherwise prohibited by federal law), nor shall there be imposed any prior restraint on free speech.

"(3) Any person injured in his business by an intentional violation of subsection (a) of this section may recover the actual damages that he has thereby sustained.

"(4) Any action to enforce any claim for damages under this section shall be barred unless commenced within four years after the claim accrued.

"(c) In any proceeding in any court respecting any act, practice, or course of conduct, in or affecting commerce, which involves, or relates to, the copying or other imitation or utilization of any aspect of any product configuration, packaging, trade name, or other merchandising practice, of another person, the law applied and remedies applicable (subject only to laws relating to theft and to the Federal patent, copyright, and trademark laws) shall be those of the preceding subsections of this section."

SEC. 3. No claim barred under existing law on the effective date of this Act shall be revived by this Act.

SEC. 4. Section 1338 of title 28, United States Code, is amended by deleting from the first sentence of subsection (a) thereof the words "copyrights and trademarks" and substituting therefor the words "copyrights, trademarks, and unfair and unlawful competition."

SEC. 5. If any provision of this Act or the application of such provision to any person or circumstance is held invalid, the remainder of this Act shall not be affected thereby.

By Mr. MOSS:

S. 1477. A bill to provide for the issuance of a commemorative postage stamp in honor of the veterans of the Spanish-American War. Referred to the Committee on Post Office and Civil Service.

STAMP COMMEMORATING SPANISH-AMERICAN WAR VETERANS

Mr. MOSS. Mr. President, today I am introducing legislation calling for a stamp honoring and commemorating our Spanish-American War veterans. Not only is a stamp honoring these worthy

[1] This provision follows the general common law rule that manufacturers should take reasonable steps to inform prospective purchasers of their goods as to the source from which they come, but they are not obliged to take impractical or unduly expensive measures. This approach both furthers competition and protects the legitimate interests of competing businessmen. See *National Biscuit* case, *supra*.

men long overdue, but in a few years there will be little point in issuing such a stamp, for all the veterans of the Spanish-American War will be gone. Of the 400,000 volunteer Army that went to war in 1898, there are now only about 2,000 left.

For years, the Post Office has been petitioned to issue a stamp honoring the Spanish War veterans. But year after year, the postal people have put off these petitions by stating that the matter is under consideration. I really fail to see that there is anything left to consider. Surely, there is no more distinguished group of patriots than these remaining veterans. The Post Office has issued stamps on nearly everything under the sun, but for some reason has not seen fit to honor the veterans of the Spanish-American War. It is high time it did so.

I ask unanimous consent to print the text of the bill in the RECORD at this point.

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

S. 1477

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Postal Service is authorized and directed to issue a special postage stamp in honor of the veterans of the Spanish American War. Such stamp shall have a denomination of 8 cents, shall bear such design as the United States Postal Service shall determine, and shall be first placed on sale on such date and shall be sold thereafter for such period as the United States Postal Service shall determine.

By Mr. MAGNUSON (by request):

S. 1478. A bill to amend the Communications Act of 1934, as amended, with respect to commissioners and Commission employees. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Communications Act of 1934, as amended, with respect to commissioners and Commission employees, and ask unanimous consent the letter of transmittal and statement of need be printed in the RECORD with the text of the bill.

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

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 9, 1973.

The VICE PRESIDENT,
U.S. Senate.
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its Legislative Program for the 93rd Congress a proposal to amend section 4 of the Communications Act with respect to commissioners and Commission employees.

The bill essentially is designed to permit financial interests in mutual funds and companies who are subject to the licensing provisions of the Communications Act only because they make some incidental use of radio communications as an aid to their business operations. It would prohibit financial interests in broadcast stations, cable television systems, and communications common carriers or mutual funds whose investments are concentrated substantially in those areas.

The Commission's draft bill to accomplish the foregoing objective was submitted to the Office of Management and Budget for its consideration. We have now been advised by that Office that from the standpoint of the Administration's program there would be no objection to the presentation of the draft bill to the Congress for its consideration. Accordingly, there are enclosed six copies of our draft bill and explanatory statement on this subject.

The consideration by the Senate of the proposed amendment to the Communications Act of 1934 would be greatly appreciated. The Commission would be most happy to furnish any additional information that may be desired by the Senate or by the Committee to which this proposal is referred.

Sincerely,

DEAN BURCH,
Chairman.

EXPLANATION OF BILL TO AMEND SECTION 4 OF THE COMMUNICATIONS ACT OF 1934, AS AMENDED, WITH RESPECT TO COMMISSIONERS AND COMMISSION EMPLOYEES

This proposal would amend subsection 4(b) of the Communications Act of 1934, as amended, with respect to commissioners and Commission employees.

Subsection 4(b) of the Communications Act provides as follows:

"(b) Each member of the Commission shall be a citizen of the United States. No member of the Commission or person in its employ shall be financially interested in the manufacture or sale of radio apparatus or of apparatus for wire or radio communication; in communication by wire or radio or in radio transmission of energy; in any company furnishing services or such apparatus to any company engaged in communication by wire or radio or to any company manufacturing or selling apparatus used for communication by wire or radio; or in any company owning stocks, bonds, or other securities of any such company; nor be in the employ of or hold any official relation to any person subject to any of the provisions of this Act, nor own stocks, bonds, or other securities of any corporation subject to any of the provisions of this Act. Such commissioners shall not engage in any other business, vocation, profession, or employment. Any such commissioner serving as such after one year from the date of enactment of the Communications Act Amendments, 1952, shall not for a period of one year following the termination of his service as a commissioner represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any commissioner who has served the full trem for which he was appointed. Not more than four members of the Commission shall be members of the same political party."

Proposed paragraph (1) of subsection (b) includes, without substantive changes, all existing provisions of that subsection concerning commissioners except as to their financial interests. Proposed paragraphs (2) and (3) revise the provisions concerning the financial interests of commissioners and employees. Paragraph (4) explains that the Commission is not restricted by this Act from imposing restrictions in addition to those set forth in Public Law 87-849 and other laws or Executive Orders. Paragraph (5) affords the Commission the opportunity to waive certain provisions of subsection 4(b) to avoid hardships which could arise in exceptional circumstances.

Conflict of interest provisions in the law have the highly salutary purpose of ensuring that Government officials act in the public interest and maintain their affairs so that no actual or apparent personal financial motivations cloud their official decisions. We are in full accord with this objective.

However, subsection 4(b) of the Communications Act, adopted in 1934 under quite different circumstances than prevail today, is far more restrictive than recent Congressional and Administrative pronouncements and is substantially inconsistent with current national policy.

Congress in 1962 extensively revised chapter 11 of Title 18, U.S.C., dealing with bribery, graft, and conflicts of interest (Public Law 87-849, approved October 23, 1962). Section 208 of that revision requires non-participation by officers or employees in matters in which they have financial interests. It reads:

"(a) Except as permitted by subsection (b) hereof, whoever, being an officer or employee of the executive branch of the United States Government, of any independent agency of the United States, or of the District of Columbia, including a special Government employee, participates personally and substantially as a Government officer or employee, through decision, approval, disapproval, recommendation, the rendering of advice, investigation, or otherwise, in a judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter in which, to his knowledge, he, his spouse, minor child, partner, organization in which he is serving as officer, director, trustee, partner or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, has a financial interest—

"Shall be fined not more than $10,000, or imprisoned not more than two years, or both.

"(b) Subsection (a) hereof shall not apply (1) if the officer or employee first advises the Government official responsible for appointment to his position of the nature and circumstances of the judicial or other proceeding, application, request for a ruling or other determination, contract, claim, controversy, charge, accusation, arrest, or other particular matter and makes full disclosure of the financial interest and receives in advance a written determination made by such official that the interest is not so substantial as to be deemed likely to affect the integrity of the services which the Government may expect from such officer or employee, or (2) if, by general rule or regulation published in the Federal Register, the financial interest has been exempted from the requirements of clause (1) hereof as being too remote or too inconsequential to affect the integrity of Government officers' or employees' services."

This statute of general applicability is not as restrictive as section 4(b) of the Federal Communications Act. We recognize, however, that in certain highly specialized fields, such as communications, some additional restrictions may be appropriate with respect to, for example, investments of commissioners and employees in companies regulated by the agency. In this respect, the Communications Act, proscribing certain activities and investments of commissioners and Commission employees, is much more restrictive than are the statutes of other regulatory agencies, which as a general rule apply only to commissioners.[1]

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[1] The more liberal provisions of the ICC Act (49 U.S.C. § 305) apply to members, examiners and members of a joint board; the CAB prohiibtion applies only to members of the Board (49 U.S.C. § 1321(b)); restrictions at FAA are on the Administrator and Deputy Administrator but not on employees of the agency (49 U.S.C. §§ 1341(b) and 1342(b)); restrictions against financial interests with respect to the Federal Power Commission apply only to commissioners (16 U.S.C. § 792).

Past announcements of the executive branch and the Congress lend vital support to the view that conflict-of-interest provisions, while they must adequately protect the public interest, need not go beyond what is necessary to ensure that protection. Congress has also expressed its attitude with respect to this general problem in the legislative history of the 1962 amendments to the conflict-of-interest statutes. The House Report (H. Rept. No. 748, 87th Cong., 1st Sess., p. 6) states:

"It is also fundamental to the effectiveness of democratic government, that, to the maximum extent possible, the most qualified individuals in the society serve its government. Accordingly, legal protections against conflicts of interest must be so designed as not unnecessarily or unreasonably to impede the recruitment and retention by the Government of those men and women who are most qualified to serve it. An essential principle underlying the staffing of our governmental structure is that its employees should not be denied the opportunity available to all other citizens, to acquire and retain private economic and other interests, except where actual or potential conflicts with the responsibility of such employees to the public interest cannot be avoided." [2] [footnote added]

Thus, the Commission is not seeking any special treatment in this area. We are endeavoring to have the antiquated provisions of this statute modified to reflect the present general law and to avoid obvious inequities which, through changed circumstances since its enactment, give the Communications Act potentially greater coverage than was either intended or envisioned.

There is no legislative history to explain the meaning Congress attached to section 4(b). Since its enactment, however, far-reaching changes have occurred in the communications art, and the Commission now has more than a million licensees. Thus, every executive's airplane equipped with radio communication must have a license from the FCC. States and municipalities are licensees of police and fire systems. In fact, practically every segment of the American economy (farming, mining, fishing, manufacturing, transportation, public utilities, etc.) uses radio communication as an aid to business operation, and is, therefore, subject to the licensing provisions of the Communications Act. The full import of this vast growth in licensing activity is in itself sufficient to cause a re-evaluation of the inequitable restrictions of section 4(b).

Another factor also tending to broaden the potential coverage of the section's existing language is the increased diversification of activity and financial interests of companies which has occurred in the three decades since this section's enactment. Thus, many companies, through a complex of corporate inter-relationships and business organizations, have remote interests in various licensees of the Commission. Although such an interest might not be readily apparent, stock ownership in these companies could conceivably be violative of section 4(b) of the Act.

The proposed amendment would therefore make clear that section 4(b) is not intended to cover the multitude of companies whose use of radio is incidental or whose relationship to companies subject to the Act is remote.

Even as to companies directly involved in broadcasting or communications common carriers, the effect of mutual fund development must be considered. Thus, almost any mutual fund would likely contain some shares in American Telephone and Telegraph Company, General Electric, Radio Corporation of America, or a similar company. Where the mutual funds' investments are not concentrated substantially in broadcasting companies, communications common carriers, or companies engaged in the manufacturing or sale of apparatus for wire or radio communication, the Communications Act should be clarified to permit commissioners and Commission employees to purchase shares of such mutual funds.

The effects of such wide disparity between the potential reach of section 5(b) of the Communications Act and existing national policy are difficult to evaluate. It is believed that its broad restrictions may tend to discourage some potential applications for employment with the Commission and to limit unfairly the investment opportunities available to Commission employees.[3]

The proposed amendment would continue to prohibit commissioners and Commission employees from having a direct financial interest in, employment by, or any official relation to (i) any person engaged in radio broadcasting; (ii) communications common carriers; (iii) persons a substantial part of whose activities consists of the manufacture or sale of apparatus for wire or radio communication; (iv) mutual funds, holding companies, or other investment companies whose investments are concentrated substantially in the entities included in paragraphs (i), (ii), and (iii). As an additional safeguard, the amendment also specifically states that nothing herein shall limit the authority of the Commission under Public Law 87-849 (87th Congress, approved October 23, 1962) or other law or Executive Order to restrict further the financial interests or official relations of its employees.

The proposal has a provision similar to the one in 18 U.S.C. § 208(b) which would permit the appointing authority to waive the prohibitions in certain cases. This provision would permit the avoidance of injustice or hardship which could arise in exceptional circumstances. For example, if a Commission employee were to be named beneficiary of a trust containing, among other things, a few shares of stock of an interstate communications common carrier, he could be in violation of the Act if he continued in the Commission's employ. Yet he might have no control over the trust and not be able to get the trustees to sell the prohibited shares. Other factual situations, each one unique, could arise and could be remedied under this waiver proviso.

Finally, the proposal would repeal as unnecessary the second sentence of subjection (j) of section 4, which appears redundant in the light of section 208 of Title 18,[4] to which the members and employees of the Commission would continue to be subject.

The Commission agrees that actual or apparent conflicts of interest should be avoided and prohibited. However, as shown, we believe the restrictions of section 4(b) potentially go far beyond what was ever envisioned and the section's prohibitions are certainly more extensive than required in order to avoid actual conflicts of interest or even the "appearance of evil."

The general conflict-of-interest laws as revised in 1962, together with the additional restrictions contained in section 4(b) as proposed, will provide adequate statutory standards to protect the public interest and insure impartial and unbiased conduct.

Adopted: October 5, 1972

Commissioner Johnson not participating; Commissioner Reid absent.

S. 1478

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 4 of the Communications Act of 1934, as amended, is amended to read as follows:

"(b)(1) Each member of the Commission shall be a citizen of the United States. A commisioner shall not engage in any other business, vocation, profession, or employment. He shall not, for a period of one year following the termination of his service as a commissioner, represent any person before the Commission in a professional capacity, except that this restriction shall not apply to any commissioner who has served the full term for which he was appointed. Not more than four members of the Commission shall be members of the same political party.

"(2) No member of the Commission or person in its employ shall be financially interested in, be employed by, or have any official relation to—

"(A) any person engaged in radio broadcasting, or the distribution of programs over wire;

"(B) any person engaged in communication by wire or radio as a common carrier;

"(C) any person a substantial part of whose activities consists of the manufacture or sale of apparatus for wire or radio communication.

"(3) Nothing herein shall preclude investment in mutual funds, holding companies, or other investment companies unless their investments are concentrated substantially in the areas covered by clauses (A) through (C) of paragraph (2).

"(4) Nothing herein shall be construed to limit any authority given to the Commission under Public Law 87-849 or other law or Executive Order to restrict further the financial interests or official relations of its employees.

"(5) Paragraph (2) of subsection (b) of this section shall not apply if the commissioner or employee advises the Government official responsible for appointment to his position of all pertinent circumstances and receives a written determination made by such official that the financial interest, employment, or official relation to a person described in paragraph (2) is not so substantial as to be deemed likely to affect the integrity of the services which the Government may except from such commissioner or employee."

SEC. 2. The second sentence of subsection (j) of section 4 of the Communications Act of 1934, as amended, is hereby repealed.

By Mr. MAGNUSON (by request):

S. 1479. A bill to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points. Referred to the Committee on Commerce.

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[2] Senate Report No. 2213, 87th Cong., 2d Sess., notes as the "consensus" of views that some of the conflict-of-interest statutes create wholly unnecessary obstacles to recruiting qualified people for government service.

[3] Unlike the general conflict-of-interest statute (18 U.S.C. § 208), section 4(b) does not presently have a provision for waiver of insubstantial financial interest.

[4] That sentence provides: "* * * No commissioner shall participate in any hearing or proceeding in which he has a pecuniary interest." It would seem that non-participation by a commissioner in any hearing or proceeding in which he has a pecuniary interest [section 4(j) of the Communications Act] is, if anything, not as broad as the non-participation in a wider variety of activities enumerated by 18 U.S.C. § 208 in which, to his knowledge, he, his spouse, minor child, etc., has a financial interest.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend subsection (b) of section 214 and subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and the Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points, and ask unanimous consent that the letter of transmittal and statement of need be printed in the RECORD with the text of the bill.

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

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 7, 1973.

The VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its legislative program for the 93d Congress a proposal to amend Sections 214(b) and 222(c)(1) of the Communicaions Act to substitute the Secretary of Defense (rather than the Secretaries instances, the Secretary of State as persons of the Army and Navy) and add, in certain entitled to receive official notice of the filing of certain applications.

Presently, when a common carrier wishes to extend its lines or to discontinue or curtail existing common carrier services, it must file an application for permission to do so. Section 214(b) of the Communications Act provides that among those entitled to receive official notice of the filing of such an application are the Secretaries of the Army and the Navy. A similar provision for official service is contained in section 222(c)(1), in the case of consolidations and mergers. The current version of these sections was enacted prior to the establishment of the Department of Defense. With a view to eliminating unnecessary paper work, the Commission proposes that sections 214(b) and 222(c)(1) be amended to provide for official notice to the Secretary of Defense. Experience has proved that while copies of applications have been sent to the Departments of the Army, Navy and Air Force, as well as the Secretary of Defense, the Department of Defense is the replying agency in the vast majority of cases. In is believed that limiting official notice to the Department of Defense should provide adequate notice to the military and, at the same time, eliminate unnecessary administrative work.

Further, the Department of State has indicated that foreign policy considerations may be involved in certain extensions or discontinuances of common carrier services. As a result, it is proposed that the Department of State be notified where authority is sought to provide service to a foreign point.

The Commission's draft bill to accomplish these revisions and the explanation of the draft bill have been submitted to the Office of Management and Budget for their consideration. We have now been advised that from the standpoint of the Administration's program, there is no objection to our submitting the draft bill to Congress for its consideration.

The Commission would appreciate consideration of the proposed amendments to the Communications Act of 1934 by the Senate. If the Senate or the Committee to which this bill may be referred would like any further information on it, the Commission will be glad to provide it upon request.

Sincerely,

DEAN BURCH,
Chairman.

STATEMENT

Explanation of the proposed amendment to section 214 and section 222 of the Communications Act of 1934, as amended, in order to designate the Secretary of Defense (rather than the Secretaries of the Army and Navy) as the person entitled to receive official notice of the filing of certain applications in the common carrier service and to provide notice to the Secretary of State where under section 214 applications involve service to foreign points

This legislative proposal would amend sections 214(b) and 222(c)(1) of the Communications Act of 1934, as amended, to designate the Secretary of Defense (rather than the Secretaries of the Army and Navy) as the person entitled to receive official notice of the filing of certain applications.

Presently, when a common carrier wishes to extend its lines or to discontinue or curtail existing common carrier services, it must file an application for permission to do so. Section 214(b) of the Communications Act provides that among those entitled to receive official notice of the filing of such an application are the Secretary of the Army and the Secretary of the Navy. A similar provision for official service is contained in section 222(c)(1), in cases of consolidations and mergers.

With a view to eliminating unnecessary paper work, the Commission proposes that sections 214(b) and 222(c)(1) of the Communications Act of 1934, as amended, be amended to provide for official notice to the Secretary of Defense and to delete "Secretary of the Army" and "Secretary of the Navy" where those titles appear in such sections. Experience has proved that while copies of applications have been sent to the Departments of the Army, Navy, and Air Force, as well as the Secretary of Defense, the Department of Defense is the agency that makes the required reply in the vast majority of cases.

Limiting official notice to the Department of Defense in such cases should provide adequate notice to the military and, at the same time, eliminate unnecessary administrative work.

The Department of State has indicated that foreign policy considerations may be involved in certain extensions or discontinuances of common carrier services. While the Commission has customarily provided notice to the Department of State of at least major matters in this area, the proposed amendment would require statutory notification to the Department of State where such applications for certificates involve service to foreign points.

Adopted: Deecmber 20, 1972.

Commissioner Reid concurring in the result.

S. 1479

Be it enacted by the Senate and the House of Representatives of the United States of America in Congress assembled, That subsection (b) of section 214 of the Communication Act of 1934, as amended (47 U.S.C. 214 (b)), is amended by deleting from the first sentence thereof "the Secretary of the Army, the Secretary of the Navy," and inserting in lieu thereof "the Secretary of Defense, the Secretary of State (with respect to such applications involving service to foreign points),".

SEC. 2. That subsection (c)(1) of section 222 of the Communications Act of 1934, as amended, is amended by deleting from the first sentence thereof "the Secretary of the Army," and "the Secretary of the Navy," and inserting in lieu thereof "the Secretary of Defense," immediately after "Secretary of State," in such sentence.

By Mr. MAGNUSON (by request):

S. 1480. A bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures, and ask unanimous consent that the letter of transmittal and statement of need be printed in the RECORD with the text of the bill.

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

FEDERAL COMMUNICATIONS COMMISSION,
Washington, D.C., March 7, 1973.

THE VICE PRESIDENT,
U.S. Senate,
Washington, D.C.

DEAR MR. VICE PRESIDENT: The Commission has adopted as part of its Legislative Program for the 93d Congress a proposal to amend the Communications Act of 1934, as amended, with respect to forfeitures.

The proposal would unify and simplify the forfeiture provisions as well as enlarge their scope to cover persons subject to the Act, but not subject to forfeitures, such as community antenna (CATV) systems.

The proposal would also provide for more effective enforcement of the forfiture provisions. The limitation period for issuance of a notice of apparent liability would be extended from ninety days to three years for non-broadcast licensees and from one year for broadcast station licensees to one year or the remainder of the current license term, whichever is greater. All other persons would be subject to a three year statute of limitations. The maximum amount of forfeiture that could be imposed for a single offense would be $2,000, and the maximum for multiple offenses would be $20,000 for broadcast licensees, permittees and common carriers, and, CATV systems. The maximum forfeiture for all other persons would be $5,000.

The Commission's draft bill to accomplish these revisions and the explanation of the draft bill have been submitted to the Office of Management and Budget for their consideration. We have now been advised that from the standpoint of the Administration's program, there is no objection to our submitting the draft bill to Congress for its consideration.

The Commission would appreciate consideration of the proposed amendments to the Communications Act of 1934 by the Senate. If the Senate or the Committee to which this bill may be referred would like any further information on it, the Commission will be glad to provide it upon request.

Sincerely,

DEAN BURCH,
Chairman.

EXPLANATION OF PROPOSED AMENDMENTS TO THE COMMUNICATIONS ACT OF 1934 TO UNIFY AND STRENGTHEN CERTAIN PROVISIONS FOR THE USE OF FORFEITURES AND PENALTIES

The Federal Communications Commission recommends the amendment of the Communications Act of 1934, as amended, to unify, simplify and make more effective the forfeiture provisions of sections 503(b) and 510. Section 503 provides for forfeitures where a broadcast licensee or permittee vio-

lates the terms of his license, the Communications Act, a Commission regulation, a cease and desist order issued by the Commission, or specified provisions of title 18 of the United States Code. Section 510 provides separately for forfeitures applicable to non-broadcast radio stations where any one of twelve specified offenses occurs. It also provides for the imposition of a forfeiture upon the operator of the station in particular cases. It is proposed to amend section 503(b) and repeal section 510 to place all of these classes of forfeiture under section 503(b), which would be expanded to apply to all persons (other than where ship or common carrier forfeitures are otherwise provided for) who violate the Communications Act, a Commission rule or order prescribed under the Communications Act or a treaty, the terms of a license permit, certificate, or other instrument of authorization, or the obscenity, lottery, or fraud provisions of title 18 of the United States Code.

The principal objective of the proposed legislation is to unify and simplify the forfeiture provisions; to enlarge their scope to cover persons subject to the Act but not now under the forfeiture provisions—such as cable systems (CATV), users of Part 15 or Part 18 devices, communications equipment manufacturers, and others also subject to Commission regulations who do not hold licenses issued by the Commission; and to provide for more effective enforcement.

Prior to 1960 the Commission was empowered to revoke station licenses or station construction permits and to issue cease and desist orders to any person violating the Communications Act or a Commission rule (see section 312 of the Act) and to suspend operator licenses (see section 303(m) of the Act). There was no provision for a penalty of lesser magnitude than revocation or denial of renewal of station licenses. Because a penalty affecting the license was not warranted for all violations, the Commission needed an alternative for dealing with those who should continue to hold licenses.

Therefore, in 1960 section 503(b), 74 Stat. 889, was enacted to give the Commission the enforcement alternative of imposing forfeitures in the case of broadcast licensees or permittees; and in 1962, section 510, 76 Stat. 68, was added to permit the Commission to impose forfeitures on non-broadcast radio licensees for twelve specific kinds of misconduct. These forfeitures have proved to be useful enforcement tools.

However, after nine years of experience and reevaluation under this enforcement scheme, the Commission has concluded that common procedures with uniform sanctions for common carriers, broadcast entities, and other electronic communications businesses subject to our jurisdiction are required to deal effectively with the many forms of misconduct that impede the policy and purposes of the Communications Act. Moreover, there is a need in addition to make forfeitures applicable to the many forms of non-broadcast radio licensee misconduct that are not now covered by the twelve categories in section 510. In light of these problems, the Commission recommends that non-broadcast radio licensees no longer be governed by section 510, which should be repealed, and that they be governed instead according to the provisions of section 503(b), which should be expanded. This comprehensive and uniform treatment would mean that the misconduct which is now subject to forfeiture under section 510 would become subject to forfeiture under the proposed section 503(b).

The proposed amendments would make three additional material alterations in the Communications Act's existing forfeiture provisions. First, the forfeiture sanctions would be made available against all persons who have engaged in proscribed conduct. Therefore, the amended section 503(b) would reach not only the broadcast station licensees and permittees now covered by section 503(b) and the other station licensees and operators now covered by section 510, but also any person subject to any provsions of the Communications Act[1] or the Commission's rules as well as those persons operating without a valid station or operator's license, those operators not required to have a license, and those licensed radio operators who are now subject only to suspension under section 303(m).

Second, the limitations period for the issuance of notices of apparent liability would be extended for broadcast station licensees from the present one year to one year or the current license term, whichever is greater, and for non-broadcast radio station licensees from the present ninety days to three years. For all other persons subject to forfeiture under the proposal, the limitations period would be three years.

Third, the maximum amount of forfeiture that could be imposed for the acts or omissions set forth in any single notice of apparent liability would be modified as follows: (1) the maximum forfeiture that could be imposed for a single offense would be $2,000; and (2) the maximum forfeiture that could be imposed for multiple offenses would be (a) $20,000 in the case of a common carrier, a broadcast station licensee or permittee, or a person engaged in distributing to the public broadcast signals by wire or engaged in distributing to the public other program services by wire if such activity is the subject of Commission regulation, and (b) $5,000 in the case of all other persons. Existing section 503(b) provides for a maximum of only $1,000 for single offenses by a broadcast station and $10,000 for multiple offenses. Those persons subject to existing section 510(a) are liable only for $100 for single offenses and a maximum of $500 for multiple offenses.

The proposed amendments to broaden the Commission's forfeiture authority would alleviate the difficulties caused by the lack of forfeiture authority against CATV systems (or other communications businesses that may become subject to our jurisdiction), users of incidental and restricted radiation devices, users of devices which contain radio frequency oscillators[2], communications equipment manufacturers, persons operating without holding a required license, and others subject to Commission regulations. Except for the Commission's cease and desist authority, which is not an effective deterrent to misconduct, enforcement of the Act or Commission rules or orders against such persons now must be by judicial action under section 401 or criminal prosecution under sections 501 and 502.

In extending the forfeiture procedures to licensed operators, the proposed amendment would provide an administrative alternative to the sometimes unduly harsh penalty of license suspension now authorized in section 303(m). License suspension may be unduly harsh if it denies the offender his customary means of livelihood for the suspension period. License suspension may also cost the offender permanent loss of his job, or of his customers if he operates a mobile radio service maintenance business. The proposed extension of the section 503(b) forfeiture provisions to licensed operators would afford the Commission an effective medium for obtaining compliance by operators, but would not cause the secondary detriments which often stem from license suspension. The administrative penalty of forfeiture would also provide a more feasible alternative to cease and desist orders or judicial enforcement under sections 401, 501 or 502, against operators who are not required to hold a license and against whom, therefore, a license suspension is not an available penalty.

Under the proposal, forfeiture liability would arise only after (1) a person has been served personally with or been sent by certified or registered mail to his last known address a notice of apparent liability; (2) he has been given an opportunity to show in writing why he should not be held liable; and (3) if he has submitted a written response, the Commission has considered his response and issued an order of forfeiture liability.

In addition to these procedural protections applicable to all persons subject to our jurisdiction, we have provided special procedural protection for a limited group of individual members of the public at large who may be presumed to be unaware of the Commission's regulation of equipment they may be operating. For example, there may be concern that an individual would be subject to forfeiture for willful maloperation of an electronic device such as a garage door opener, an electronic water heater, or electronic oven, when he may be unaware of the applicability of the Communications Act or the Commission's rules and regulations.[3]

For this limited group, no forfeiture could attach unless prior to the notice of apparent liability the Commission has sent him a notice of the violation and has provided him an opportunity for a personal interview and the individual has thereafter engaged in the conduct for which notice of the violation was sent. The Commission's obligation would be limited first of all to a sole natural person, that is an "individual" as distinct from the more general term "person" as used in section 3(i) of the Communications Act. Moreover, that individual would not be within the special protection provisions if he was engaged in an activity that required the holding of a license, permit, certificate, or other authorization from the Commission or was providing any service by wire subject to the Commission's jurisdiction.

It should be noted that this special procedure would not have to be accorded a second time to an individual who subsequently engaged in the same conduct; and the individual may be liable to a forfeiture not only for the conduct occurring subsequently but also for the conduct for which notice of a violation was sent and opportunity for a personal interview given.

Under existing provisions of the statute, which would not be changed, any person against whom a forfeiture order runs may challenge the order by refusing to pay. If the United States institutes a collection actiin, the issue of forfeiture liability would be reheard in a trial *de novo* in a U.S. District Court.

The second major modification in the Commission's proposal, the extension of the pres-

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[1] A person subject to a forfeiture under title II or parts II or III of title III or section 507 of the Act would not, however, be subject to a forfeiture under the proposed section 503(b) for the same violation. This provision in the proposal is similar to a provision now in section 510.

[2] Part 15 of the Commission's rules governs the use of devices which only incidentally emit radio frequency energy and restricted radio devices such as radio receivers. Part 18 of the Commission's rules governs the use of industrial, scientific and medical equipment, such as industrial heating equipment, all of which incorporate radio frequency oscillators. Such devices are permitted to operate without issuance of an individual license provided that they are operated in accordance with the provisions in the rules designed to minimize interference to regular radio communications services.

[3] Should the maloperation of any such device create hazards to life or property, the Commission would still have authority under section 312 to issue a cease and desist order.

ent time limitations for the issuance of notices of apparent liability is necessary if the Commission's forfeiture authority is to be an effective sanction. Because of increasing workloads and personnel shortages the ninety-day limitation in the non-broadcast services and the one-year limitation in the broadcast services are often substantial impediments to the use of the forfeiture sanction in appropriate cases. The Commission proposes that the statute of limitations for all persons holding broadcast radio station licenses under title III be extended to one year or the current license term, whichever is greater; for all other persons, the statute of limitations would be three years.

With over 25,000 authorizations in the broadcast services, more than 15,000 authorizations in the common carrier services, and almost 2,000,000 authorizations in the safety and special services, it is impossible for Commission field office personnel to make regular inspections in all these services. Violations of the Communications Act or of the Commission's rules in the non-broadcast services are sometimes detected by station inspection but more generally through our field office monitoring. Monitoring usually requires transcription of tapes which in itself is a time-consuming process. Thereafter, as a matter of practice, the field office issues a notice of violation to the licensee and offers an opportunity to him to comment on or explain the alleged misconduct. In the over-whelming majority of cases, the nature and extent of the violation or the licensee's explanation thereof are such as to require no further action and the matter is closed. However, these notices of violation are also checked through the Commission's office in Washington against licensee records, and in those instances where the licensee has a history of repeated misconduct or where the instant misconduct is willful and sufficiently serious, it may be determined that the imposition of a forfeiture is called for as an appropriate deterrent against future violations.

Our experience since the enactment of the Commisison's forfeiture authority in the non-broadcast services demonstrates that with the imbalance between the number of violation cases and the number of staff personnel to review them, it is often impossible to issue the notice of apparent liability for forfeitures within the ninety-day period provided in the present statute. Considering the very great number of authorizations in the non-broadcast services, plus the great number of persons who are permitted to operate radio frequency equipment in accordance with our regulations but without holding an instrument of authorization, we believe a three-year statute of limitations for notices of apparent liability is entirely reasonable and necessary to enable the Commission to invoke more frequently the forfeiture provisions Congress has provided and thus to secure greater compliance with the Act.

Similarly, a longer statute of limitations is necessary in the broadcast field in order to enable the Commission to reach violations of the Act. The existing one-year limitations period is usually sufficient in cases arising from regular station inspection by field office personnel. However, personnel shortages do not permit more than one inspection during a three-year license term. Although violations may be disclosed and considered by the Commission during its review of license renewal applications, the comparatively minor character of such violations does not warrant denial of renewal and often the one-year period has elapsed before a notice of apparent liability can be issued. Further, in many instances, misconduct by broadcast licensees is not uncovered in regular station inspections by field office personnel, but comes to light as the result of complaints and other information received by the Commission staff in Washington. These complaints and other information may require detailed and time-consuming investigation of station operations before a determination can be made that there may have been misconduct. Subsequent to the investigation the licensee has an opportunity to comment on or explain the alleged misconduct. Thus, it is often impossible for the Commission to consider questions as to apparent culpability and appropriateness of a forfeiture sanction and then to issue the required notice of apparent liability within the one-year limitation period now provided in section 503(b). Here again the legislative objective in vesting forfeiture authority in the Commission is often frustrated by the present time limitations.

Further, the one-year limitation for the issuance of notices of apparent liability in the broadcast field sometimes produces results which are self-defeating. Thus, in one instance the Commission received information that a radio station broadcast an allegedly rigged contest. Field investigation of the station initiating the program was begun as promptly as possible. The intricacies of the alleged misconduct require a time-consuming inquiry. During the course of the inquiry Commission investigators unearthed information revealing an earlier broadcast of another rigged contest concerning which there was extensive and conclusive evidence. However, upon completion of the field investigation, the Commission was able to impose a forfeiture for only the most recent misconduct because the earlier violation had occurred more than one year before. In such a case it is still possible of course to designate the license renewal application for hearing. We stress, nevertheless, that because refusal to renew the license was the only sanction available because of the short statute of limitations, the legislative purpose of section 503(b) of the Act could not be fully implemented. The Commission needs to be able to exercise its forfeiture authority during the entire span of a broadcast license term for minor violations occurring during that license term.

The Commission is therefore proposing for broadcast licensees a statute of limitations of one year or its current license terms, whichever is greater. The proposal would permit the Commission to issue notices of apparent liability to broadcast station licensees (1) for any misconduct which occurs during a current license term and (2) for any misconduct which occurs during the last part of the prior license term if the notice of apparent liability is issued within a year of the time of the alleged misconduct.

The third major amendment the Commission is proposing is an increase in the maximum forfeitures. The currently available forfeitures are unrealistic and inadequate. In many situations the maximums are too low to permit the Commission to fashion an effective deterrent against large communications businesses. For example, the current maximum forfeiture available against a multimillion dollar broadcast licensee is $1,000 for a single violation up to a maximum of $10,000 for multiple violations. The proposal would provide more realistic forfeiture maximums for large broadcast interests, large common carriers, and other large communications businesses. Other persons would be subject to lower maximums. With the proposed maximums, the Commission would still retain the discretion to impose smaller forfeitures for offenses of lesser gravity. The Commission fully recognizes the necessity of tailoring forfeitures to the nature of the offense and the offender and has done so within the present statutory authority. Furthermore, the Commission would still have the authority to mitigate or remit forfeitures after considering a request for such relief.

One relatively minor amendment is also being proposed. By deleting section 510 as proposed, the Commission would be relieved of the obligation to provide a personal interview at the request of a non-broadcast station licensee or operator who receives a notice of apparent liability. Proposed section 503(b)(2), which incorporates much of the substance of section 510, does not include the interview provision. The Commission's experience is that only ten to fifteen percent of the persons to whom a notice of apparent liability has been issued avail themselves of the interview opportunity. Furthermore, seldom does an interview elicit any data which the licensee has not already furnished to the Commission, either in response to the notice of a violation or to the notice of apparent liability.

On the other hand, interviews in only ten to fifteen percent of these instances impose substantial burdens upon field offices. Critical engineering personnel must be diverted from regular pressing duties to interview the suspected violator and must then submit detailed reports to the Commission's main office in Washington, D.C. Commission personnel at the Washington, D.C. office then must coordinate all of the documents relevant to a given notice of apparent liability that may have been accumulated in several field offices and transmit the documents to the field office where the interview is scheduled. On balance, the Commission believes that the public, and the non-broadcast licensees and operators themselves, would best be served by the deletion of the field office interview provision from the forfeiture section.

Furthermore, it would be impossible for the Commission to continue interviews with non-broadcast licensees and at the same time provide personal interviews to members of that group of individuals who would now be subject to forfeitures for the first time and for whom special procedural protections are being proposed in section 503(b)(3). As between the two groups the Commission believes the public interest would be better served by the interviews that would be required under proposed section 503(b)(3).

Lastly, the Commission is seeking authority to mitigate or remit forfeitures imposed under title II of the Communications Act concerning common carriers. The Commission now has no express authority to remit, mitigate, or otherwise reduce a forfeiture imposed under these common carrier provisions, although section 504(b) provides express authority to mitigate or remit forfeitures under parts II and III of title III, and sections 504(b), 507 and 510. Since the Commission has this authority with respect to all other forfeitures which it can summarily impose, there is no reason not to include within this authority the common carrier forfeitures in title II. Moreover, it is reasonable to permit the Commission to exercise its authority to mitigate or remit on its own motion rather than awaiting an application for action. The Commission should be able to exercise its judgment before imposing a fine if the circumstances warrant a reduction or cancellation of a forfeiture.

In conclusion, the more uniform, comprehensive, and higher forfeiture provisions and the related modifications which the Commission now seeks should contribute substantially to greater compliance with the law and better administrative enforcement of the law.

Adopted: October 5, 1972.

Commissioner Johnson not participating; Commissioner Reid absent.

S. 1480

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

SECTION 1. Section 503(b) of the Communications Act of 1934 as amended (47 U.S.C. 503(b)), is amended to read as follows:

"(b) (1) Any person who—

"(A) willfully or repeatedly fails to operate a radio station substantially as set forth in a license, permit or other instrument or authorization;

"(B) willfully or repeatedly fails to observe any of the provisions of this Act or of any certificate, rule, regulation, or order of the Commission prescribed under authority of this Act or under authority of any agreement, treaty or convention binding on the United States;

"(C) violates section 317(c) or section 509(a)(4) of this Act; or

"(D) violates sections 1304, 1343, or 1464 of title 18 of the United States Code;

shall forfeit to the United States a sum not to exceed $2,000. Each act or omission constituting a violation shall be a separate offense for each day during which such act or omission occurs. Such forfeiture shall be in addition to any other penalty provided by this Act; *provided*, however, that such forfeiture shall not apply to conduct which is subject to forfeiture under title II of this Act; *and provided further*, that such forfeiture shall not apply to conduct which is subject to forfeiture under part II or part III of title III or section 507 of this Act.

"(2) No forfeiture liability under paragraph (1) of this subsection (b) shall attach to any person unless a written notice of apparent liability shall have been issued by the Commission, and such notice has been received by such person or the Commission shall have sent such notice by registered or certified mail to the last known address of such person. A notice issued under this paragraph shall not be valid unless it sets forth the date, facts and nature of the act or omission with which the person is charged, and specifically identifies the particular provision or provisions of the law, rule, regulation, agreement, treaty, convention, license, permit, certificate, other authorization, or order involved. Any person so notified shall be granted an opportunity to show in writing, within such reasonable period as the Commission shall by rule or regulation prescribe, why he should not be held liable.

"(3) No forfeiture liability under paragraph (1) of this subsection (b) shall attach to any individual who does not hold a license, permit, certificate, or other authorization from the Commission unless prior to the written notice of apparent liability required by paragraph (2) above, the individual has been sent a notice of the violation, has been given reasonable opportunity for a personal interview with an official of the Commission at the field office of the Commission nearest to the individual's place of residence and thereafter has engaged in the conduct for which notice of the violation was sent; *provided*, however, that the requirement of this subsection for a notice of the violation and opportunity for a personal interview shall not apply if the individual is engaging in activities for which a license, permit, certificate, or other authorization is required or is providing any service by wire subject to the Commission's jurisdiction; *and provided further*, that any individual who has been sent a notice of the violation, has been given a reasonable opportunity for a personal interview and thereafter engages in the conduct for which the notice was sent shall not be entitled to a further notice for the same conduct and may be subject to forfeiture for the initial and all subsequent violations.

"(4) No forfeiture liability under paragraph (1) of this subsection (b) shall attach for any violation—

"(A) by any person holding a broadcast station license under title III of this Act if the violation occurred (i) more than one year prior to the date of the issuance of the notice of apparent liability or (ii) prior to the date beginning the current license term, whichever date is earlier, or

"(B) by any other person if the violation occurred more than three years prior to the date of issuance of the notice of apparent liability.

"(5) In no event shall the total forfeiture imposed for the acts or omissions set forth in any notice of apparent liability issued hereunder exceed—

"(A) in the case of (i) a common carrier subject to this Act, (ii) a broadcast station licensee or permittee, or (iii) a person engaged in distributing to the public broadcast signals by wire or engaged in distributing to the public other program services by wire if such activity is the subject of Commission regulation, $20,000;

"(B) in the case of any other person, $5,000."

SEC. 2. Section 510 of the Communications Act of 1934, as amended (47 USC § 510), is hereby repealed.

SEC. 3. Section 504(b) of the Communications Act of 1934, as amended (47 USC § 504 (b)), is amended by deleting the words "parts II and III of title III and section 503 (b), section 507, and section 510" and substituting the words "title II and parts II and III of title III and sections 503(b) and 507", and by deleting the phrase ", upon application therefor,".

SEC. 4. Any act or omission which occurs prior to the effective date of this Act and which incurs liability under the provisions of sections 503(b) or 510 as then in effect will continue to be subject to forfeiture under the provisions of sections 503(b) and 510 as then in effect.

SEC. 5. The amendments made by this Act shall take effect on the thirtieth day after the date of its enactment.

By Mr. MAGNUSON (by request):

S. 1481. A bill to amend section 1(16) of the Interstate Commerce Act authorizing the Interstate Commerce Commission to continue rail transportation services. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to amend section 1(16) of the Interstate Commerce Act authorizing the Interstate Commerce Commission to continue rail transportation services, and ask unanimous consent that the letter of transmittal and statement of purpose be printed in the RECORD with the text of the bill.

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

INTERSTATE COMMERCE COMMISSION,
OFFICE OF THE CHAIRMAN,
Washington, D.C., March 8, 1973.

Hon. WARREN G. MAGNUSON,
Chairman, Committee on Commerce, U.S. Senate, Washington, D.C.

Hon. HARLEY O. STAGGERS,
Chairman, Committee on Interstate and Foreign Commerce, House of Representatives, Washington, D.C.

GENTLEMEN: The events of the last few weeks have refocused national attention on the urgent need to develop additional methods to deal with the railroad crisis in the Northeast section of our nation.

The Commission visualizes the situation as a community problem warranting resolution on a coordinated basis. We have prepared contingency plans to attempt to preserve essential service if certain railroads shut down. In that context we have encouraged railroads to plan together a more rational rail system in the Northeast.

On February 12, 1973, we embarked upon a major attempt to develop a new program for bringing order out of the economic chaos which has overtaken railroads serving the Northeast. The purpose of the Commission's effort, entitled Ex Parte No. 293, *Northeastern Railroad Investigation*, is to gather information concerning the actual operations of the carriers involved; to identify and plan for the preservation of essential rail services; to provide a vehicle for exploring with the reorganization courts and the trustees of the railroads in reorganization ways in which cooperative endeavors might permit operating efficiencies through the reduction of duplicative services and facilities without impairing service; and to develop recommendations for the consideration of the Congress. The time frame of the proceeding is such that we hope to submit positive, comprehensive recommendations to you concurrently with the Department of Transportation's report required in S.J. Res. 59.

In the interim, however, there is one change in existing law which should be made without delay; it involves an amendment to section 1(16) of the Interstate Commerce Act. That amendment, enclosed herewith, would empower us to direct one railroad to operate over the lines of another when the latter is unable to transport essential tendered traffic.

The enclosed draft bill was introduced into the 92nd Congress as S. 2494 (hearings were held September 16, 1972) and H.R. 9748, but they did not pass either House. With the jurisdiction conferred upon us by this bill, the Commission could foreclose any real or threatened shutdown of necessary rail service. Now, if a close down occurs or is threatened, the Commission can exercise certain emergency powers to alleviate the crisis; but those powers stop short of our ordering one railroad to operate over the lines of another.

As you are aware, the nation's railroads operate as an integrated system, notwithstanding the fact that the system consists of many individual enterprises. The crucial point is that the system is interreliant and that by law each is required to do such things as exchange traffic and rolling stock so that a shipper can tender his traffic to one carrier with the knowledge that it will be delivered at any rail point in accordance with shipping instructions. If one operation terminates because of some crisis, the effect will ripple throughout the entire system. With section 1(16) amended as we propose, at least three important objectives can be achieved. First, the Commission would be able to prevent a cessation of essential service by directing adjacent or other connecting carriers to conduct operations over a defunct carrier's lines. Secondly, by maintaining such service, the Commission can prevent a ripple effect which otherwise could thrust marginal connecting carriers into bankruptcy. And thirdly, the connecting carriers, knowing that they could be subjected to mandatory orders by the Commission to take over temporary operations of some or all the non-operating carrier's services, and knowing that a crisis-caused bargain will not be available to them, would be more apt to enter into constructive negotiations on a timely basis for the preservation of service through participation in the debtor's reorganization.

The urgent situation in the Northeast alone merits that this bill be favorably considered and passed as soon as possible by the Congress; however, beyond that situation other future crises involving service voids will inevitably occur and have to be overcome. With this additional power, we can move to meet those crises if and when they happen.

We, therefore, submit the enclosed draft bill with the hope that it will receive immediate and positive Congressional attention.

Sincerely yours,

GEORGE M. STAFFORD,
Chairman.

STATEMENT OF PURPOSE OF DRAFT BILL

The draft bill would amend section 1(16) of the Interstate Commerce Act so as to give the Interstate Commerce Commission the necessary authority to order one railroad to operate over the lines of another in an emergency situation. Examples of when such a situation could occur are when a carrier ceases operating for lack of funds or when a carrier in reorganization is ordered by the court under section 77 of the Bankruptcy Act to cease operating to preserve assets for its creditors.

S. 1481

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(16) of the Interstate Commerce Act (49 U.S.C. 1(16)) is amended to read as follows: "Whenever the Commission is of opinion that any carrier by railroad subject to this part is for any reason unable to transport the traffic offered it so as properly to serve the public, it may, upon the same procedure as provided in paragraph (15), make such just and reasonable directions with respect to the handling, routing, and movement of the traffic of such carrier and its distribution over *such carrier's or* other lines of roads, as in the opinion of the Commission will best promote the service in the interest of the public and the commerce of the people, and upon such terms as between the carriers as they may agree upon, or, in the event of their disagreement, as the Commission may after subsequent hearing find to be just and reasonable."

By Mr. MAGNUSON (by request):

S. 1482. A bill to authorize appropriations for the Coast Guard for the procurement of vessels and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce by request, for appropriate reference, a bill to authorize appropriations for the Coast Guard for the procurement of vessels and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes and ask unanimous consent that the letter of transmittal be printed in the RECORD with the text of the bill.

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

SECRETARY OF TRANSPORTATION,
Washington, D.C., February 23, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: There is transmitted herewith a draft of a bill,

"To authorize appropriations for the Coast Guard for the procurement of vessels and construction of shore and offshore establishments, to authorize appropriations for bridge alterations, to authorize for the Coast Guard an end year strength for active duty personnel, to authorize for the Coast Guard average military student loads, and for other purposes."

This proposal is submitted under the requirements of Public Law 88-45 which provides that no funds can be appropriated to or for the use of the Coast Guard for the procurement of vessels or aircraft or the construction of shore or offshore establishments unless the appropriation of such funds is authorized by legislation. Section 2 of the proposed bill responds to section 302 of Public Law 92-436 which directs that Congress shall authorize for each fiscal year the end strength as of the end of the fiscal year for active duty personnel for each component of the Armed Forces. Section 3 responds to section 604 of the same Public Law which provides that Congress shall authorize for each component the average military training student loads for each fiscal year. Section 4 authorizes funds for the use of the Coast Guard for payments to bridge owners for the cost of alteration of railroad and public highway bridges to permit free navigation of the navigable waters of the United States under the Act of June 21, 1940 (54 Stat. 497), as amended.

The proposal includes, as it has previously, all items of acquisition, construction, and improvement programs for the Coast Guard to be undertaken in fiscal year 1974 even though the provisions of Public Law 88-45 appear to require authorization only for major facilities and construction. Inclusion of all items avoids the necessity for arbitrary separation of these programs into two parts with only one portion requiring authorization.

Not all items, particularly those involving construction, are itemized. For example, those involving pollution abatement, navigational aids, light station automation, public family quarters, and advanced planning projects contain many different particulars the inclusion of which would have unduly lengthened the bill.

In further support of the legislation, the cognizant legislative committees will be furnished detailed information with respect to each program for which fund authorization is being requested in a form identical to that which will be submitted in explanation and justification of the budget request. Additionally, the Department will be prepared to submit any other data that the committees or their staffs may require.

It would be appreciated if you would lay this proposal before the Senate. A similar proposal has been submitted to the Speaker of the House of Representatives.

The Office of Management and Budget has advised that enactment of this proposed legislation is in accord with the President's program.

Sincerely,

CLAUDE S. BRINEGAR.

S. 1482

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That funds are hereby authorized to be appropriated for fiscal year 1974 for the use of the Coast Guard as follows:

Vessels

For procurement and increasing the capability vessels, $23,979,000.

(A) Procurement:

(1) 75 foot inland construction tenders.

(2) small boat replacement program.

(3) design of vessels.

(B) Renovation and increasing capability:

(1) renovate and improve buoy tenders.

(2) re-engine and renovate coastal buoy tenders.

(3) abate pollution by oily waste from Coast Guard vessels.

(4) abate pollution by non-oily waste from Coast Guard vessels.

Construction

For establishment or development of installations and facilities by acquisition, construction, conversion, extension, or installation of permanent or temporary public works, including the preparation of sites and furnishing of appurtenances, utilities, and equipment for the following, $50,521,000.

(1) Portsmouth, Virginia: Construct new Coast Guard Base, Phase IIa.

(2) Portsmouth, Virginia: Construct new Communications Station.

(3) Monterey and Santa Cruz, Calif.: Rebuild Monterey Station, construct Santa Cruz Unmanned Moorings.

(4) Montauk Point, N.Y.: Control erosion at Montauk Point Light Station.

(5) Cape May, N.J.: Construct dining Hall at recruit training center.

(6) Brooklyn, N.Y. and Wildwood, N.J.: Expand interim centralized electronic systems maintenance facilities.

(7) Carolina Beach, N.C.: Construct barracks at Loran C Station.

(8) Fort Lauderdale, Fla.: Increase capability of Ft. Lauderdale Station.

(9) New Orleans, La.: Expand New Orleans Air Station.

(10) San Diego, Calif.: Control erosion at Light Station Pt. Loma.

(11) San Diego, Calif.: Improve San Diego Air Station.

(12) Astoria, Oreg.: Expand Astoria Air Station.

(13) Attu Island, Alaska: Rebuild airstrip bridge.

(14) Kodiak, Alaska: Renovate and consolidate Kodiak Base.

(15) Cheboygan, Mich.: Construct moorings for Coast Guard Cutter *Mackinaw*.

(16) Various locations: Waterways Aids to Navigation Projects.

(17) Various locations: Abate pollution at Coast Guard shore stations.

(18) Various locations: Lighthouse Automation and Modernization Program.

(19) Various locations: Large navigational buoys to replace lightships.

(20) New York, N.Y.: Establish Vessel Traffic System, Phase I.

(21) Puget Sound, Wash.: Vessel Traffic System, Part 1 of Phase III.

(22) New Orleans, La.: Establish Vessel Traffic System, Phase I.

(23) Various locations: Public Family Quarters.

(24) Various locations: Advance planning, survey, design, and architectural services; project administration costs; acquire sites in connection with projects not otherwise authorized by law.

SEC. 2. For fiscal year 1974 the Coast Guard is authorized an end strength for active duty personnel of 37,236; except that the ceiling shall not include members of the Ready Reserve called to active duty under the provisions of Public Law 92-479.

SEC. 3. For fiscal year 1974 military training student loads for the Coast Guard are authorized as follows:

(1) recruit and special training, 3,946 man-years.

(2) flight training, 86 man-years.

(3) professional training in military and civilian institutions, 231 man-years.

(4) officer acquisition training, 1,200 man-years.

SEC. 4. For use of the Coast Guard for payment to bridge owners for the cost of alterations of railroad bridges and public highway bridges to permit free navigation of navigable waters of the United States, $7,000,000 is hereby authorized.

By Mr. INOUYE (for himself, Mr. MAGNUSON, Mr. Moss, and Mr. CANNON):

S. 1483. A bill to amend the Export Trade Act. Referred jointly to the Committees on Commerce and the Judiciary by unanimous consent.

Mr. INOUYE. Mr. President, in the last Congress, Senator MAGNUSON and I introduced a number of related bills (S.

4113–S. 4120) concerning export expansion. The legislation focused on one central theme, namely, that it was the responsibility—indeed, duty—of the Federal Government to encourage American firms to engage in export sales and to promote vigorously the efforts of American business to sell abroad.

Our belief that strong, immediate action on our trade imbalance is needed has been strengthened recently. There is, perhaps, little that one can add to the commentary about the monetary crisis of the last few weeks. The events have underlined a major feature about international commercial and monetary affairs. The dollar is now viewed as a weak currency whose intrinsic value is subject to serious question.

It is true that we are enjoying an economic recovery. However, this encouraging economic development is counterbalanced, at least in the eyes of corporate treasurers, speculators, and bankers, by our serious merchandise trade and balance of payments deficits. In short, we are pouring out billions of dollars to add to the bulging stockpile of dollars already held by foreigners.

In 1972 we suffered a trade deficit of $6.4 billion f.o.b. This is more than 3 times the imbalance of $2.1 billion in 1971. Reliance on the automatic adjusting mechanism of currency revaluation has proven unduly optimistic. The so-called "Smithsonian Agreement," hailed at one time as "the most significant monetary agreement ever made," has been buried in 14 months. One can hardly be blamed for wondering whether the new agreement will have greater durability.

Figures just released by the Commerce Department confirm the dismal monetary picture. Last year we incurred a $10.1 billion deficit in the official reserve transaction balance, which covers dollar holdings of foreign central banks and other governmental agencies. On a liquidity basis, we had the second biggest deficit ever—$13.8 billion.

President Nixon has announced plans to ask for additional authority from the Congress to deal with excessive imports. His proposals will, I am certain, receive full and sympathetic examination by the Congress. As Americans, we can all agree on the need to obtain a "fair shake" in international commercial dealings.

However, the resolution of the commercial-monetary crisis will require a broad perspective that must encompass more than the currency readjustments and additional tariff authority. As the most recent monetary difficulties graphically demonstrated, tinkering with the monetary mechanism is inadequate. Many items in world trade are price-inelastic and hence do not respond to price changes. Moreover, as the incomes of American consumers rise, they can continue purchasing foreign goods even though they pay more. Finally, the intervention of governments in commercial transactions means that market forces do not operate freely, and the consequent distortions will diminish the benefits of a devaluation.

In 1972 a study by the International Economic Policy Association entitled "The U.S. Balance of Payments: From Crisis to Controversy" concluded that only a limited volume of trade is price sensitive and that even if the United States eliminated its trade deficit we should not expect a large surplus for several years—if at all. The lesson is clear. Nothing short of a major national effort to make the American economy price-competitive and to increase our sales efforts abroad can end the chronic deficits which plague our economy.

The crisis in our balance of payments and foreign trade has led many well-meaning Americans to advocate the establishment of high barriers to imports and to the free flow of capital and technology. Such legislation is ill-considered and dangerous. The passage of such legislation would not only be an admission to the rest of the world that we cannot or will not compete but it would probably also precipitate a massive trade war in which everyone would lose.

The legislation which I am introducing today, with the cosponsorship of Senators MAGNUSON, MOSS, and CANNON approaches our trade problems in a positive manner. The bills are in most respects similar to S. 2754 on which hearings were held in early 1972. As a result of those hearings, I believe that we have an ample legislative record to justify expeditious treatment of much of the program. For jurisdictional reasons, we have decided to separate S. 2754 into six bills, which can be referred more easily to House committees.

A detailed description of the individual bills is given below. I would like to make an additional comment about the bill which would establish an International commerce service within the Department of Commerce. Members of the Service would have the responsibility for representing American commercial interests in American missions abroad as commercial minister, counselor, attaché, officer or any such titles as may be prescribed by the Secretary of Commerce.

The bill was introduced in response to dissatisfaction with the commercial representation that the American business community has been receiving overseas. Studies of business attitudes confirmed that by and large American executives were unhappy with the kind of assistance which American Foreign Service officers afforded them. The indifference shown was in marked contrast to the aggressive, eager help which foreign diplomats extended to their nationals.

We no longer can afford the luxury of ignoring our overseas commercial interests. I am pleased to report that the events of the last 2 years have not been lost on the Department of State. Prodded by the Congress and intradepartmental concern, opportunities for commercial officers in the Department have improved, and the commercial function is being upgraded. Indeed, some individuals have advised me that work within the commercial zone is now considered a prerequisite for advancement within the Foreign Service.

These developments are welcome even if long overdue. However, the changes have lagged far behind actual needs, and they were effected only after unnecessary delay. A decade ago this issue of functional priorities arose. Reforms were promised, only to atrophy as interest in the subject waned. The international economic arena has substantially altered, and our foreign trade needs are more compelling than ever. While I would very much like to believe that the new emphasis on commercial affairs is permanent, the history of previous reform efforts is not encouraging. Without wishing to detract from the achievements of the Department of State, I am reintroducing the bill because of my profound concern that the reordering of priorities is not yet complete.

Mr. President, I realize that the program represented by the bills being introduced today is no panacea for our international economic ills; however, I believe that it is a positive, workable program which represents a major step in strengthening Federal efforts in the export area.

INTERNATIONAL COMMERCE SERVICE

This bill would establish an International Commerce Service within the Department of Commerce. Members of the Service would replace the commercial officers currently serving in American missions abroad and would have diplomatic immunity and a status equivalent to that enjoyed by Foreign Service officers of comparable rank and salary.

EXPORT EXPANSION

This is an omnibus bill which establishes a number of new programs and incentives to promote American exports.

Title I would establish a Trade Development Corps to consist of up to 500 Americans from private industry with master of business administration degrees or other business skills to be assigned on trade development projects of various kinds, including serving abroad, conducting surveys, investigations, and studies, and assisting other Government personnel and the private business community on trade matters.

Title II would authorize the establishment of a program of grants to local, State, and regional governments for projects designed to encourage exporting by small, medium-sized, and inexperienced firms.

Title III would establish a new export training program within the Department of Commerce to train new and potential American exporters.

Title IV would authorize the creation of regional American merchandise centers, which would serve as multipurpose trade centers offering such diverse services as warehousing, distributing, translating, counseling, and so forth. The objective of this program is to provide these services to the new exporter until he is able to sustain himself in the market, at which time he would be expected to make room for a new American firm.

Title V would establish a joint export association program to permit the Government to enter into cost-sharing contracts with private firms and individuals.

Title VI directs the Secretary of Commerce to reduce to the greatest extent possible documentation requirements under this bill.

Title VII would reorganize the Department of Commerce by separating the post of Assistant Secretary for Domestic and International Business into two separate assistant secretaryships. The new International Commerce Administration, headed by an Assistant Secretary for International Business, would be the focus within the Department for international commercial operations. The title would also establish a Domestic Commerce Administration, headed by an Assistant Secretary for Domestic Business. Finally, this title would require biennial authorizations for international business activities within the Department. This new requirement will enable the Congress to examine the budget request for foreign commercial programs every other year apart from other departmental items and to make such changes as may be necessary to improve our export performance.

WEBB-POMERENE ACT AMENDMENTS

Many American businessmen have alleged that the strict application of antitrust laws has inhibited their ability to compete on equal terms with their foreign competitors. S. 2754 contained a title authorizing the establishment of chartered export associations organized purely for exporting. During hearings on the bill, former Chairman of the Federal Trade Commission, Miles Kirkpatrick, testified in opposition to it and suggested that changes in the Export Trade Act of 1918—Webb-Pomerene Act—would be more appropriate. The new bill incorporates the changes suggested by Mr. Kirkpatrick.

The bill also amends the 1918 Act by including the exports of services among those activities which can be exempted. Since our economy is increasingly service-oriented, it is highly important to equalize the treatment accorded to manufactured goods and services.

COMMISSION ON FOREIGN PROCUREMENT PRACTICES

This bill establishes a Commission on Foreign Procurement Practices to study foreign governments procurement procedures and to compare them to American practices. The Commission would issue a report on ways to equalize international procurement practices and, if discriminatory practices against American companies persist, how the United States can respond to foreign firms seeking government business in the United States.

OCEAN FREIGHT RATE DISPARITIES

Currently shipping conference tariffs often set forth a rate two or three times as high as carrying a commodity from a point in the United States to a foreign destination as to carry the identically described commodity between the same two points in the opposite direction. The Export Expansion Act, S. 2754, contained in it a title which was intended to vastly simplify tariffs and to permit meaningful analyses of disparities. Testimony at the hearings from the steamship industry indicated that the provisions as drafted would not be practical, at least at present. However, the matter does not end here since there is ample evidence that existing shipping conference tariffs contain undue proliferations and overlappings of commodity descriptions making a meaningful comparison of rates impossible.

The legislation which is being introduced today is a revision of the original language and would promote uniformity in tariff commodity descriptions. I believe this is a necessary first step in analyzing what disparities exist, if any, and to dealing with them.

GREATER RECOGNITION OF FOREIGN TRADE IMPACT ON FEDERAL DECISIONMAKING

Historically the United States has placed very little emphasis on foreign trade and finance. Although the United States is the world's dominant economic power, the base of this strength has been our continental-sized economy with its large and prosperous markets. The total volume of our foreign trade is less than 9 percent of our GNP. This compares to Germany's 38 percent, United Kingdom's 38 percent, and Japan's 22 percent. It is thus comprehensible that these nations should place the utmost importance on international commerce. For almost the entire post-World War II period, the United States gave far more emphasis to politics and security than to economics and commerce.

Our ability to subordinate economics and commerce to political considerations has ended. In spite of the recent growth of the American economy, most other industrial nations are growing much faster. With the aid of their governments, foreign businesses are investing more in industrial capacity, research and development, and sales promotion. Indifference to these developments is a luxury we can no longer afford.

I believe that we must give more careful consideration to our international economic interests, balance of payments, and balance of trade when we are making Government policy. Also, I believe that more emphasis should be given to coordinating various Government actions that affect our international economic positions. The bill being introduced today would require all Federal agencies to issue a foreign trade impact statement whenever they propose to take action significantly affecting our international economic relations, balance of trade, or balance of payments. In drafting the statement, the agencies will be compelled to consult with other governmental agencies to consider the following: balance of payments; balance of trade; international economic relations; domestic employment; and alternatives to the proposed action.

Enactment of the bill would not result in undue delay of Government actions as a result of litigation arising from the impact statement requirement because the bill provides no cause of action or claim for relief can be sought under its provisions.

I ask unanimous consent that this bill be referred jointly and simultaneously to the Committee on Commerce and the Committee on the Judiciary, that following the reporting of the bill by either committee the other committee shall have 45 calendar days thereafter to report the bill, that following such 45 days the committee not reporting the bill shall be considered to have discharged the bill, and that it be placed on the Senate Calendar of Business.

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

By Mr. McGOVERN (for himself and Mr. ABOUREZK):

S. 1490. A bill to expand the membership of the Advisory Commission on Intergovernmental Relations to include elected school board officials. Referred to the Committee on Government Operations.

Mr. McGOVERN. Mr. President, one of the most critical areas of public service today is education, in both the financial and the social sense. Accordingly, decisions made in education must be made with the participation of those in the field.

Yet the National Advisory Commission on Intergovernmental Relations, which recommends improved public service through better coordination of all areas of government, does not have among its membership representatives from the local school boards.

I feel that important decisions should not be made in this area without the advice and counsel of people whose responsibilities are so much at stake. Therefore, I introduce a bill which will increase membership on the Commission from 26 to 28, the two additional members to be appointed by the President from four elected school board officials from names submitted by the National School Boards Association.

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

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

S. 1490

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 3(a) of the Act entitled "An Act to establish an Advisory Commission on Intergovernmental Relations" approved September 24, 1959 (42 U.S.C. 4271 et seq.), is amended—

(1) by striking out 'twenty-six members" in the matter preceding paragraph (1) and inserting in lieu thereof "twenty-eight members"; and

(2) by striking out "and" at the end of paragraph (6), by striking out the period at the end of paragraph (7) and inserting in lieu thereof "; and"; and by inserting after paragraph (7) the following new paragraph:

"(8) Two appointed by the President from a panel of at least four elected school board officials submitted by the National School Boards Association."

(b) Section 3(b) of such Act is amended by adding at the end thereof the following new sentence: "Of the members appointed under paragraph (8) of subsection (a) of this section not more than one shall be from any one political party and not more than one from any one State."

SEC. 2. (a) Section 4(c) of such Act is amended by striking out "and (7)" and inserting in lieu thereof "(7), and (8)".

(b) Section 4(e) of such Act is amended by striking out "Thirteen" and inserting in lieu thereof "Fourteen".

SEC. 3. Section 7(a) of such Act is amended by inserting "or of school boards" after "county governments".

By Mr. JACKSON (by request):

S. 1491. A bill to amend the Organic Act of Guam. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by letter of March 13, 1973, Senator G. M. Bamba, legislative secretary of the 12th Guam Legislature, transmitted Resolution No. 43 requesting the Congress to remove section 11 of the Organic Act of Guam. This section of the act prohibits public indebtedness of Guam in excess of 10 percent of the aggregate tax evaluation of property in the territory.

In response to this resolution of the Guam Legislature, I am today introducing legislation, drafted by the Senate legislative counsel's office, to amend the Guam Organic Act in accordance with the request that has been made.

I reserve judgment as to whether this course of action is the proper one to follow in assisting Guam in financing needed capital improvements. However, the introduction of this bill will permit the entire matter to be thoroughly explored.

Mr. President, I ask unanimous consent that Resolution No. 43, together with the letter of transmittal, be included in the RECORD following my remarks.

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

12TH GUAM LEGISLATURE,
Agana, Territory of Guam, March 13, 1973.

Hon. HENRY M. JACKSON,
Chairman, Senate Committee on Interior and Insular Affairs, Senate Office Building, Washington, D.C.

DEAR MR. CHAIRMAN: Transmitted herewith is Resolution No. 43, "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", duly and regulatory adopted by the Legislature.

Sincerely yours,

G. M. BAMBA,
Legislative Secretary.

RESOLUTION NO. 43

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.

Duly and regularly adopted on the 27th day of February, 1973.

By Mr. HARTKE:

S. 1492. A bill to create a Senate Tax Reform Commission. Referred to the Committee on Finance.

Mr. HARTKE. Mr. President, I introduce today, for appropriate reference, a bill which would create a commission to study our tax laws and propose desirable changes. Title 26, the Internal Revenue Code, occupies hundreds of pages of the 1964 edition of the United States Code, and amendments to title 26 occupy an additional hundreds more. Hundreds of amendments to the code are offered to every Congress, yet no completely comprehensive study of our tax laws and their functions has ever been made.

The Federal Government raises some $208 billion in tax revenues annually. The way in which this is done is undoubtedly the single most important factor in the economic life of the Nation, if not in the entire spectrum of goods and activities on which taxes are levied. The rates of taxation of each item, the degree of graduation of rates, the numerous special provisions intended to encourage or discourage specific activities, the loopholes and quirks in the law which sometimes have effects quite different than the original intents; these have an extremely strong, in some cases determining, impact on all phases of American life. Slight changes in one or more provisions can vastly alter for large segments of the economy choices between more consumption or greater saving, among the various possible allocations of investment. By the judicious framing of various provisions, we can provide incentives for greater or lesser spending on housing, on pollution control, on urban renewal, on medical research, or on production of hula hoops.

The time is long overdue for us to examine our tax structure as an integrated whole: to decide what objectives we wish to accomplish, to determine the specific influences of individual provisions with respect to each of these goals, to learn what we can about the interrelationships among various goals and instruments designed to achieve them in order to eliminate counteracting influences, and finally to determine an integrated policy to achieve, or help to achieve, the desired results.

My bill will create a commission which will study the situation in all of its aspects. The commission will submit interim reports as and when it considers advisable, and within 2 years will submit a final report, which will shed light on the aforementioned considerations.

We can no longer afford to deal piecemeal with tax problems as they occur to us or are forcibly impressed upon us. Nor can we continue to consider individual issues in isolation, that is without allowance for the complicated interrelationships that exist. And finally we cannot abdicate our responsibility to consider the far-reaching effects of each provision of our tax system, for whether we change the structure or leave it as it is, it will continue to affect us, and we are therefore making an implicit decision in either case. We must not allow the outcome of that decision to rest purely on the vicissitudes of chance.

Mr. President, I ask unanimous consent that the text of my 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. 1492

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

SECTION 1. IN GENERAL.—There is established within the Senate a Tax Reform Commission (hereinafter referred to as the "Commission"), to provide thorough, nonpartisan, and objective analysis and advice to the Senate in the area of taxation generally, and tax reform in particular.

SEC. 2. COMPOSITION.—The Commission shall be composed of twelve members, selected for their professional qualifications, excellence, and experience in finance, public finance, taxation, or related fields, as follows:

(1) five persons, selected by majority vote of the members of the Senate Finance Committee belonging to the majority party;

(2) five persons, selected by majority vote of the members of the Senate Finance Committee belonging to the minority party;

(3) one person appointed by the majority leader of the Senate; and

(4) one person appointed by the minority leader of the Senate.

(b) The Commission shall elect a Chairman and a Vice Chairman from among its members.

(c) Any vacancy occurring in the membership of the Commission shall be filled in the manner in which the original member was appointed. A vacancy in the Commission shall not affect its powers.

(d) (1) Members of the Commission who are otherwise employed by the Federal Government shall serve without compensation, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

(2) Member of the Commission not otherwise employed by the Federal Government shall receive compensation at the rate of $125 a day (including traveltime) for each day they are engaged in the performance of their

duties as members of the Commission and shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the duties of the Commission.

SEC. 3. DUTIES.—(a) The Commission shall make a thorough, nonpartisan, and objective study of taxation and tax reform, with particular emphasis upon—

(1) proposed changes in the tax laws of the United States, including tax reform measures, and alternative proposals by the Commission;

(2) the effects of proposed or alternative changes in the tax laws on the revenue, economy, and social structure of the United States; and

(3) the interrelationship of Federal taxes and State and local taxes.

(b) During the course of its study, the Commission may submit to the Senate such reports as the Commission considers advisable. The Commission shall submit a final report with respect to its findings, conclusions, and recommendations no later than two years after the date of enactment of this Act.

(c) The Commission shall terminate within sixty days after submission of its final report.

SEC. 4. POWERS.—(a) The Commission, or on the authorization of the Commission, any subcommittee thereof, may, for the purpose of carrying out its duties and powers, hold such hearings and sit and act at such times and places, administer such oaths, and require, by subpena or otherwise, the attendance and testimony of such witnesses, and the production of such books, records, papers, and documents as the Commission or such subcommittee may deem advisable. Subpenas may be issued under the signature of the Chairman or Vice Chairman, and may be served by any person designated by the Chairman or Vice Chairman.

(b) Each department, agency, and instrumentality of the executive branch of the Government, including independent agencies, is authorized and directed to furnish to the Commission, upon request made by the Chairman or Vice Chairman, such information as the Commission deems necessary to carry out its duties under this part, and as the department, agency, or instrumenality is permitted by law to disclose.

(c) In order to carry out the provisions of this Act, the Commission is authorized—(1) to appoint and fix the compensation of such personnel as may be necessary;

(2) to obtain the services of experts and consultants, in accordance with the provisions of section 3109 of title 5, United States Code, at rates for individuals not to exceed $125 a day (including traveltime);

(3) to use, with their consent, the services, equipment, personnel, and facilities of Federal and other agencies with or without reimbursement; and

(4) to use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(d) Section 2107 of title 5, United States Code, is amended by—

(1) striking out the "and" at the end of paragraph (7);

(2) striking the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and the word "and"; and

(3) adding at the end thereof the following new paragraph:

"(9) the employees of the Senate Tax Reform Commission.".

SEC. 5. REPORTS AND OTHER PAPERS.—(a) Such reports as the Commission shall submit to the Senate, including the final report, shall be printed as Senate documents.

(b) The working papers, memorandums, and other written materials of the Commission, including any reports considered but not recommended to the Senate, shall be preserved, inventoried, cataloged, and transferred to the General Services Administration for preservation, subject to the orders of the Senate.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this bill.

By Mr. SPARKMAN (for himself, Mr. TOWER, and Mr. WILLIAMS):

S. 1495. A bill to expand the National Flood Insurance Program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes. Referred to the Committee on Banking, Housing and Urban Affairs.

Mr. SPARKMAN. Mr. President, I introduce for myself and Senators TOWER and WILLIAMS a bill to expand the National Flood Insurance program by substantially increasing limits of coverage and total amount of insurance authorized to be outstanding and by requiring known flood-prone communities to participate in the program, and for other purposes.

I ask unanimous consent that the bill be printed in full in the RECORD, and I further ask unanimous consent that a section-by-section analysis be printed in the RECORD following the bill.

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

S. 1495

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 "Flood Disaster Protection Act of 1973."

FINDINGS AND DECLARATION OF PURPOSE

SEC. 2. (a) The Congress finds that (1) annual losses throughout the Nation from floods and mudslides are increasing at an alarming rate, largely as a result of the accelerating development of, and concentration of population in, areas of flood and mudslide hazards; (2) the availability of Federal loans, grants, guaranties, insurance, and other forms of financial assistance are often determining factors in the utilization of lands and the location, and construction of public and of private, industrial, commercial, and residential facilities; (3) property acquired or constructed with grants or other Federal assistance may be exposed to risk of loss through floods, thus frustrating the purpose for which such assistance was extended; (4) Federal instrumentalities insure or otherwise provide financial protection to banking and credit institutions whose assets include a substantial number of mortgage loans and other indebtedness secured by property exposed to loss and damage from floods and mudslides; (5) the Nation cannot afford the tragic losses of life caused annually by flood occurrences, nor the increasing losses of property suffered by flood victims, most of whom are still inadequately compensated despite the provision of costly disaster relief benefits; and (6) it is in the public interest for persons already living in flood-prone areas to have both an opportunity to purchase flood insurance and access to more adequate limits of coverage, so that they will be indemnified for their losses in the event of future flood disasters.

(b) The purpose of this Act, therefore, is to (1) substantially increase the limits of coverage authorized under the National Flood Insurance Program; (2) provide for the expeditious identification of, and the dissemination of information concerning, flood-prone areas; (3) require States or local communities, as a condition of future Federal financial assistance, to participate in the flood insurance program and to adopt adequate flood plain ordinances with effective enforcement provisions consistent with Federal standards to reduce or avoid future flood losses; and (4) require the purchase of flood insurance by property owners who are being assisted by Federal programs or by Federally supervised, regulated, or insured agencies in the acquisition or improvement of land or facilities located or to be located in identified areas having special flood hazards.

DEFINITIONS

SEC. 3. (a) As used in this Act, unless the context otherwise requires, the term—

(1) "Act" means the National Flood Insurance Act of 1968, 42 U.S.C. 4001–4127;

(2) "Community" means a State or a political subdivision thereof which has zoning and building code jurisdiction over a particular area having special flood hazards;

(3) "Federal agency" means any department, agency, corporation, or other entity or instrumentality of the Executive Branch of the Federal Government, and shall include the following Federally-sponsored agencies: Federal National Mortgage Association and Federal Home Loan Mortgage Corporation;

(4) "Financial assistance" means any form of loan, grant, guaranty, insurance, payment, rebate, subsidy, disaster assistance loan or grant, or any other form of direct or indirect Federal financial assistance, other than general or special revenue sharing or formula grants made to States;

(5) "Financial assistance for acquisition or construction purposes" means any form of financial assistance which is intended in whole or in part for the acquisition, construction, reconstruction, repair, or improvement of any publicly or privately owned building or mobile home, and for any machinery, equipment, fixtures, and furnishings contained or to be contained therein, and shall include the purchase or subsidization of mortgages or mortgage loans but shall exclude assistance for emergency work essential for the protection and preservation of life and property performed pursant to the Disaster Relief Act of 1970.

(6) "Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions" means the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation, the Comptroller of the Currency, the Federal Home Loan Bank Board, the Federal Savings and Loan Insurance Corporation, and the National Credit Union Administration; and

(7) "Secretary" means the Secretary of Housing and Urban Development.

(b) The Secretary is authorized to define or redefine, by rules and regulations, any scientific or technical term used in this Act, insofar as such definition is not inconsistent with the purposes of this Act.

TITLE I—EXPANSION OF NATIONAL FLOOD INSURANCE PROGRAM

INCREASED LIMITS OF COVERAGE

SEC. 101. (a) Section 1306(b)(1)(A) of the National Flood Insurance Act of 1968 is amended to read as follows:

"(A) in the case of residential properties—

(i) $35,000 aggregate liability for any single-family dwelling, and $100,000 for any residential structure containing more than one dwelling unit, and

(ii) $10,000 aggregate liability per dwelling unit for any contents related to such unit;"

(b) Section 1306(b)(1)(B) of such Act is amended by striking out "$30,000" and "$5,000" wherever they appear and inserting in lieu thereof "$100,000".

(c) Section 1306(b)(1)(C) of such Act is amended to read as follows:

"(C) in the case of church properties and any other properties which may become eligible for flood insurance under section 1305—

(i) $100,000 aggregate liability for any single structure, and

(ii) $100,000 aggregate liability per unit for any contents related to such unit; and".

REQUIREMENT TO PURCHASE FLOOD INSURANCE

SEC. 102. (a) No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1973, for use in any area that has been identified by the Secretary as an area having special flood hazards and in which the sale of flood insurance has been made available under the Act, unless the building or mobile home and any personal property to which such financial assistance relates is, during the anticipated economic or useful life of the project, covered by flood insurance in an amount at least equal to its development or project cost (less estimated land cost) or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less: *Provided*, That if the financial assistance provided is in the form of a loan or an insurance or guaranty of a loan, the amount of flood insurance required need not exceed the outstanding principal balance of the loan and need not be required beyond the term of the loan.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation direct such institutions on and after July 1, 1973, not to make, increase, extend, or renew any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards and in which flood insurance has been made available under the Act, unless the building or mobile home and any personal property securing such loan is covered for the term of the loan by flood insurance in an amount at least equal to the outstanding principal balance of the loan or to the maximum limit of coverage made available with respect to the particular type of property under the Act, whichever is less.

FINANCING

SEC. 103. Subsection (a) of section 1309 of the National Flood Insurance Act of 1968 is amended by—

(a) inserting "without the approval of the President" after the words "such authority", and

(b) inserting a period in lieu of the comma after the figure "$250,000,000" and striking out all of the words that follow.

INCREASED LIMITATION ON COVERAGE OUTSTANDING

SEC. 104. Section 1319 of the National Flood Insurance Act of 1968 is amended by striking out "$4,000,000,000" and inserting in lieu thereof "$10,000,000,000".

FLOOD INSURANCE PREMIUM EQUALIZATION PAYMENTS

SEC. 105. Section 1334 of the National Flood Insurance Act of 1968 is amended by deleting subsection (b) and by redesignating subsection "(c)" as subsection "(b)".

TITLE II—DISASTER MITIGATION REQUIREMENTS

NOTIFICATION TO FLOOD-PRONE AREAS

SEC. 201. (a) Not later than six months following the enactment of this title, the Secretary shall publish information in accordance with subsection 1360(1) of the Act, and shall notify the chief executive officer of each known flood-prone community not already participating in the National Flood Insurance Program of its tentative identification as a community containing one or more areas having special flood hazards.

(b) After such notification, each tentatively identified community shall either (1) promptly make proper application to participate in the National Flood Insurance Program or (2) within six months submit technical data sufficient to establish to the satisfaction of the Secretary that the community either is not seriously flood-prone or that such flood hazards as may have existed have been corrected by floodworks or other flood control methods. The Secretary may, in his discretion, grant a public hearing to any community with respect to which conflicting data exist as to the nature and extent of a flood hazard. If the Secretary decides not to hold a hearing, the community shall be given an opportunity to submit written and documentary evidence. Whether or not such hearing is granted, the Secretary's final determination as to the existence or extent of a flood hazard area in a particular community shall be deemed conclusive for the purposes of this Act if supported by substantial evidence in the record considered as a whole.

(c) As information becomes available to the Secretary concerning the existence of flood hazards in communities not known to be flood-prone at the time of the initial notification provided for by subsection (a) of this section he shall provide similar notifications to the chief executive officers of such additional communities, which shall then be subject to the requirements of subsection (b) of this section.

(d) Formally identified flood-prone communities that do not qualify for the National Flood Insurance Program within one year after such notification or by the date specified in section 202, whichever is later, shall thereafter be subject to the provisions of that section relating to flood-prone communities which are not participating in the program.

EFFECT OF NON-PARTICIPATION IN FLOOD INSURANCE PROGRAM

SEC. 202. (a) No Federal officer or agency shall approve any financial assistance for acquisition or construction purposes on and after July 1, 1975, for use in any area that has been identified by the Secretary as an area having special flood hazards unless the community in which such area is situated is then participating in the National Flood Insurance Program.

(b) Each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions shall by regulation prohibit such institutions on and after July 1, 1975, from making, increasing, extending, or renewing any loan secured by improved real estate or a mobile home located or to be located in an area that has been identified by the Secretary as an area having special flood hazards, unless the community in which such area is situated is then participating in the National Flood Insurance Program.

REPEAL OF DISASTER ASSISTANCE PENALTY

SEC. 203. Section 1314 of the National Flood Insurance Act of 1968 is repealed.

ACCELERATED IDENTIFICATION OF FLOOD-RISK ZONES

SEC. 204. (a) Section 1360 of the National Flood Insurance Act of 1968 is amended by inserting the designation "(a)" after "Sec. 1360." and adding new subsections "(b)" and "(c)" at the end thereof to read as follows:

"(b)" The Secretary is directed to accelerate the identification of risk zones within flood-prone and mudslide-prone areas, as provided by subsection (a)(2) of this section, in order to make known the degree of hazard within each such zone at the earliest possible date. To accomplish this objective, the Secretary is authorized, without regard to sections 3648 and 3709 of the Revised Statutes, as amended (31 U.S.C. 529 and 41 U.S.C. 5), to make grants, provide technical assistance, and enter into contracts, cooperative agreements, or other transactions, on such terms as he may deem appropriate, or consent to modifications thereof, and to make advance or progress payments in connection therewith.

"(c)" The Secretary of Defense (through the Army Corps of Engineers), the Secretary of the Interior (through the U.S. Geological Survey), the Secretary of Agriculture (through the Soil Conservation Service), the Secretary of Commerce (through the National Oceanic and Atmospheric Administration), the head of the Tennessee Valley Authority, and the heads of all other Federal agencies engaged in the identification or delineation of flood-risk zones within the several States, shall, in consultation with the Secretary, give the highest practicable priority in the allocation of available manpower and other available resources to the identification and mapping of flood hazard areas and flood-risk zones, in order to assist the Secretary to meet the deadline established by this section.

AUTHORITY TO ISSUE REGULATIONS

SEC. 205. (a) The Secretary is authorized to issue such regulations as may be necessary to carry out the purpose of this Act.

(b) The head of each Federal agency that administers a program of financial assistance relating to the acquisition, construction, reconstruction, repair, or improvement of publicly or privately owned land or facilities, and each Federal instrumentality responsible for the supervision, approval, regulation, or insuring of banks, savings and loan associations, or similar institutions, shall, in cooperation with the Secretary, issue appropriate rules and regulations to govern the carrying out of the agency's responsibilities under this Act.

FLOOD DISASTER PROTECTION ACT OF 1973

SECTION BY SECTION SUMMARY

SEC. 1. Enacting clause.

SEC. 2. *Findings and declaration of purpose.*

SEC. 3. *Definitions.*

SEC. 101. *Increased limits of coverage.* Amends section 1306(b) of the Act to provide increased limits of coverage as follows:

	Subsidized coverage		Total coverage	
	Old limit	New limit	Old limit	New limit
	(1)	(2)	(3)	(4)
Single family residential	$17,500	$35,000	$35,000	$70,000
Other residential	30,000	100,000	60,000	200,000
Nonresidential	30,000	100,000	60,000	200,000
Contents, residential	5,000	10,000	10,000	20,000
Contents, nonresidential	5,000	100,000	10,000	200,000

SEC. 102. *Requirement to purchase flood insurance.* (a) Prohibits Federal financial assistance for acquisition or construction purposes for projects within special hazard areas previously identified by HUD and made eligible for flood insurance, unless the project will be covered by such insurance for its full development cost (less land cost) or the new limit of coverage (Col. 2 or 4 above), whichever is less. (b) Federal instrumentalities responsible for the supervision of lending institutions must direct such institutions to require flood insurance in connection with their real estate or mobile home and personal property loans in such identified areas, up to the same maximum limit or the balance of the loan, whichever is less. Both subsections would take effect July 1, 1973.

SEC. 103. *Financing.* Restores authority contained in 1956 Flood Insurance Act which permits Treasury borrowing authority to ex-

ceed $250 million with the approval of the President.

SEC. 104. *Increased limitation on coverage outstanding.* Amends section 1319 of the Act to raise limit on total amount of coverage outstanding from $4 billion to $10 billion.

SEC. 105. *Flood insurance premium equalization payments.* Would repeal the detailed formula for the sharing of losses between Government and industry and permit the necessary flexibility in loss-sharing to take into account longer-term loss experience trends and to compensate for the lack of precision in actuarial computations.

SEC. 201. *Notification to flood-prone areas.* (a) Requires HUD to publish information on known flood-prone communities and to notify them within six months of their tentative identification as such. (List initially used would probably be Corps of Engineers list, based on 1960 Census data.) (b) Upon notification; community must either (1) promptly apply for participation in flood insurance program or (2) satisfy the Secretary within six months that it is no longer flood prone. A hearing may be granted to resolve disputed cases, but Secretary's decision is final unless arbitrary and capricious. (c) Additional flood-prone communities subsequently notified of their status must then meet the requirements of subsection (b) but are allowed at least one year in which to qualify for the flood insurance program before section 202 applies.

SEC. 202. *Effect of non-participation in flood program.* (a) Prohibits Federal financial assistance for acquisition or construction purposes within the identified flood-prone areas of communities that are not participating in the flood insurance program by July 1, 1975 (in most cases, about 18 months after the identification is made). (b) Directs Federal instrumentalities responsible for the supervision of lending institutions to prohibit such institutions from making real estate or mobile home loans after July 1, 1975, in areas identified as having special flood hazards unless the community in which the area is situated is participating in the flood insurance program.

SEC. 203. Repeals provision of existing Flood Insurance Act that would deny disaster assistance after December 31, 1973, to persons who for a period of a year or more could have purchased flood insurance but did not do so.

SEC. 204. *Accelerated identification of flood-risk zones.* (a) Adds a new subsection (b) to section 1360 of the Act directing HUD to accelerate hazard area identification and rate studies. Specifically authorizes the Secretary to make grants, provide technical assistance, eliminate competitive bidding requirements, and make progress payments, if necessary to accomplish that objective. (b) Directs the agencies doing the technical work for HUD to give highest practicable priority to these studies, in order to assist the Secretary to meet existing August 1, 1973, statutory area identification deadline.

SEC. 205. *Authority to issue regulations.* Authorizes (a) the Secretary, and (b) Federal agencies administering financial assistance programs and those supervising lending institutions, to issue any regulations necessary to carry out the Act.

By Mr. JAVITS (for himself and Mr. BUCKLEY):

S. 1496. A bill to establish the Van Buren-Lindenwald Historic Site at Kinderhook, N.Y., and for other purposes. Referred to the Committee on Interior and Insular Affairs.

Mr. JAVITS. Mr. President, on behalf of myself and my colleague, Senator BUCKLEY, I introduce today a bill to establish the Van Buren-Lindenwald Historic Site at Kinderhook, N.Y. This bill is similar to S. 1426, which we introduced during the 92d Congress, and which was amended and passed by the Senate on March 22, 1972.

I believe that it is important to establish fitting memorials to those who have served as Presidents of the United States whenever we have an appropriate opportunity and such presents itself in the preservation and protection of the property of President Martin Van Buren, the first President born an American citizen and whose public career touched every aspect of government. In 1797 Lindenwald was built by Peter VanNess, a public figure of considerable prominence in the local community, and in 1839 purchased by Martin Van Buren. The property then consisted of a house and 130 acres of land. When his term as President ended in 1841 Van Buren returned to Lindenwald where he resided until his death in 1862.

The Department of the Interior has evaluated the site as to its possibilities for management as a national historic site and has determined that the site should be established as provided in the bill that passed the Senate last year. It is estimated that the national historic site will encompass approximately 42 acres with total development costs estimated to be $2,278,000. Adequate facilities in existing structures on the site will allow the public to have great use and enjoyment of this historic property. Historians would be encouraged to study the site and the proposed collection of Van Buren memorabilia. Comprehensive planning would be coordinated with the appropriate State agencies to insure protection of the setting of Lindenwald.

Since the beginning of the 20th century many efforts have been made to preserve Lindenwald as a public historic site. Numerous attempts on the part of State agencies and private groups have been unsuccessful up to this date. The National Park Service has expressed its interest in Lindenwald as early as 1935 and in 1961 Lindenwald was registered as a national historic landmark in recognition of its exceptional value by way of its association with President Van Buren. It is necessary that the Congress take the final step to establish Lindenwald as a historic site.

Previously bills have been introduced in both Houses of Congress and the bill I am introducing today is similar to the bill the Senate passed last year. I expect that similar legislation will be introduced in the House and I am hopeful that we will finally take action to preserve this historic property.

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

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

S. 1496

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purposes of preserving for the education and inspiration of present and future generations the former residence (from 1841 until 1862) and only remaining structure intimately associated with Martin Van Buren, eighth President of the United States, the Secretary of the Interior shall acquire, on behalf of the United States, by gift, exchange, or purchase (with donated or appropriated funds) the real property and improvements thereon known as Lindenwald and located at Kinderhood, New York together with such adjacent or related lands and interests therein as the Secretary determines are necessary for the establishment of a national historic site. The property so acquired shall be known and designated as the Van Buren National Historical Site. The Secretary may also acquire personal property used or to be used in connection with the administration and interpretation of the national historic site.

SEC. 2. The National Park Service, under the direction of the Secretary of the Interior, shall administer, protect, and develop the Van Buren National Historic Site, subject to the provisions of the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1 and others), and the Act entitled "An Act to provide for the preservation of historic American sites, buildings, objects, and antiquities of national significance, and for other purposes", approved August 21, 1935 (16 U.S.C. 461 and others).

SEC. 3. There are authorized to be appropriated from time to time such sums as may be necessary to carry out the provisions of this Act, not to exceed, however, $225,000 for acquisition of land and $2,278,000 (April 1971 prices) for development of the area, plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein.

By Mr. TUNNEY (for himself and Mr. HART):

S. 1497. A bill to amend the Omnibus Safe Streets Act and to provide for an improved Federal effort to combat crime. Referred to the Committee on the Judiciary.

Mr. TUNNEY. Mr. President, I am pleased to introduce the Law Enforcement and Criminal Justice Act of 1973. This legislation has a simple but critically important purpose: To recognize the Law Enforcement Assistance Administration and to bring increased Federal funds directly into local communities to help them fight crime.

Basically, this legislation would reform LEAA in two fundamental steps: First, it would phase out, over the next year and a half, the present program of grantsmanship and bureaucracy. Second, it would funnel funds directly to larger cities and counties across the Nation.

During the past 2 years, I have met with law enforcement officials and criminal justice personnel throughout California and elsewhere in this Nation. These blunt conversations convinced me that LEAA, while serving some very important purposes, is strangling in its own redtape. Poor administration has led to the intrusion of politics and favoritism.

The most certain guarantee that law enforcement remains impartial and just, it seems to me, is to assure that the major decisions affecting police and our judicial system are made at the local level where the average citizen can most effectively make himself heard.

Essentially, that's what the Law Enforcement and Criminal Justice Act is intended to do.

The act would provide that the bulk of LEAA funds would, after July 1, 1975, go directly to the boards of supervisors and

city councils of larger counties and cities. They, on their own, would be able to use those funds in ways best suited to meet their local and individual problems in protecting the lives, the property and the civil rights of all Americans.

The act would go into effect on January 1 of next year, and the period between then and the date in 1975 should provide sufficient transition to phase-out the redtape and to perfect the funding procedures.

Initially, for the first year, the act would duplicate the present appropriation, $850 million, but will provide an additional 5 percent a year over the next 4 years. At the end of 5 years, Congress then could review and, if necessary, revise the program.

There would be a minimum of Federal strings, and those specified in the law principally would be for the purpose of assuring sound auditing of the funds, of improved review and reporting to all agencies of particular local programs of unusual promise and effectiveness, and of improved evaluation of LEAA—assisted programs.

More specifically, here's how the legislation would work.

Phase I, the transitional period, beginning next January, would include the following reforms:

First. Disbursing units within LEAA must act on applications for grants within 60 days. This will eliminate a lot of delay and procrastination. Application forms can be standardized for expeditious action.

Second. Get the National Institute of Law Enforcement and Criminal Justice, the research arm of LEAA, to standardize its evaluation procedures so that local programs can be held to a common measure and the better ones recommended to other communities.

Third. Require the Institute to provide assistance to smaller, local agencies in drafting grant applications.

Fourth. Improve the law enforcement education program by, first, providing direct grants to officers so they can choose the universities that will best serve their professional needs and by, second, providing funds to colleges and universities to encourage curricula in criminal justice planning. The administration, I understand, may try to eliminate LEEP, which to me, would be a senseless setback in efforts to provide better training and background to men and women in law enforcement.

Fifth. Provide Federal credit funding to programs that otherwise are not federally assisted but that prove themselves extraordinarily effective. In other words, States and communities would be repaid for imaginative programs. My legislation would not spell out what these would be, but they could include improved training programs, statewide crackdowns on organized crime, more effective rehabilitation programs, and improved relations between law school and a criminal justice system.

Sixth. Prohibit persons on various LEAA dispursing units from passing on their own grants. This should help eliminate much of the internal politicking in these units.

Seventh. Make it clear that Congress intended that planning could be done at the regional and not exclusively at the State level. This already has been implemented in California, but other States apparently have hesitated, probably because of ambiguities in the law.

These preceding seven reforms would establish a solid and lasting foundation to the more significant phase II that would begin July 1, 1975, and would funnel most LEAA funds directly to local governments.

Here is how phase II would work.

First. Seventy-five percent of all LEAA funds would be given to local jurisdictions of more than 100,000 population and to States for distribution to smaller counties and cities, and for programs subject to the general jurisdiction of the States. Allocations would be proportional to population.

Second. Twenty-five percent of the funds would be retained by LEAA itself to be divided among four vital programs—first, extra money for high-crime areas; second, continuation of credit funding for successful innovative programs; third, continuation of the law enforcement education program; and fourth, for an improved national institute to carry on its review and reporting functions.

Third. In order to assure that Federal funds are used to affect all aspects of law enforcement and the administration of justice, my legislation would require recipients to spend at least 10 percent of their LEAA funds on each of the following—law enforcement, the courts, juvenile justice, corrections and planning; and no more than 40 percent in any one of those fields. If one of those fields weren't administered by a city, then funds would go to the county or the next higher level of government that might have jurisdiction. Corrections might be such a field.

Fourth. Recipients would be required to publish statements on objectives and use of funds.

Fifth. Additionally, recipients would be required to maintain their own level of financing for all enforcement.

Sixth. The legislation, of course, would be placed under title VI of the Civil Rights Act of 1964 so that discriminatory programs are excluded from funding.

Together, phase I and phase II will slice through redtape and give local communities more money to set their own priorities in the fight against crime. It will be up to them—not some towering hierarchy of bureaucracy—to decide whether they will put more men on the beat or more judges on the bench: or improve legal assistance or experiment with work-furlough programs for jail inmates.

I believe local office holders, under the close scrutiny of the local electorate, can best decide their own priorities, and I am confident, from all the meetings with police and others over all these months, that this is the direction LEAA reform should take.

The FBI and the Secret Service are indispensible units in the war against crime, but the major battalions are the local deputies and patrolmen. And it's the local district attorney, judge, probation officer who will be able to give a helping hand to a young offender and assist him to rehabilitate himself.

They are dedicated professionals, and I should like to see their experience, their commitment and concern and their professionalism prevail through the Law Enforcement Criminal Justice Act of 1973.

Mr. President, I ask unanimous consent that a section-by-section analysis of the bill be printed in the RECORD.

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

SECTION-BY-SECTION ANALYSIS OF "THE LAW ENFORCEMENT AND CRIMINAL JUSTICE ACT OF 1973"

SECTION 1. Short title.

SEC. 2. Declaration of findings and purpose.

TITLE I—OMNIBUS CRIME CONTROL AMENDMENTS OF 1973

This title authorizes appropriations for L.E.A.A. for fiscal years 1974 and 1975 and amends the current L.E.A.A. legislation, (The Omnibus Crime Control and Safe Streets Act of 1968, P.L. 90–351, as amended) as follows.

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Authorizes appropriations for L.E.A.A. for fiscal year 1974 in the amount of $850,000,000 and for fiscal year 1975 in the amount of $892,500,000.

REGIONAL PLANNING PROVISIONS

SEC. 102. (a) Encourages regions of states, as well as states and units of general local government to become involved in law enforcement planning. This is already done in some states but is not specifically prescribed by current law.

SIXTY DAY APPROVAL REQUIREMENT

(b) Requires that all grant applications for L.E.A.A. funds must be approved or rejected within sixty days of the application.

FEDERAL CREDIT PLANNING

(c) Provides that, in disbursing "discretionary" funds under Part C, the L.E.A.A. Administration ("Administration") shall reimburse states and local governments for expenditures which they have made without federal assistance and which have demonstrably improved the criminal justice system of that jurisdiction. Frequently, such programs markedly improve a state or local law enforcement or criminal justice effort. In such instances, L.E.A.A. should attempt to reimburse the state or local government. Knowledge of such potential federal reimbursement for successful programs will provide state and local governments with an incentive to develop new and innovative programs. A wide variety of programs will be eligible for federal credit funding. Full-time judges and/or prosecutors, improved pre-trial diversion methods, improved rehabilitation programs, community-based juvenile justice programs, and an improved relationship between a law school and the courts or the police are but a few examples of programs which might be funded under this section. The funding decision will reside with the L.E.A.A. Administration.

IMPROVED EVALUATION AND REVIEW REQUIREMENTS

(d) The National Institute of Law Enforcement and Criminal Justice is authorized to provide increased assistance to recipients of funds under this Act [new subsection 402(b)(6)]; develop a standard form for the evaluation of the success or failure of programs funded under this Act [new subsection 402(b)(7)]; and develop procedures for the annual review of ongoing programs or grants [new subsection 402(b)(8)].

ASSISTANCE IN CRIMINAL JUSTICE PLANNING

(e) The Administration is authorized to use L.E.A.A. funds to assist an institution of higher education, or a combination of such institutions, in an effort to develop curricula leading to a degree in the field of criminal justice planning.

ASSISTANCE TO INDIVIDUALS THROUGH LEEP FUNDS

(f) The Law Enforcement Education Program is revised by authorizing the Administration to disburse funds directly to individuals (and not merely to institutions, as current law requires) who are enrolled in a program of higher education and who are in law enforcement careers or committed to law enforcement careers. The L.E.A.A. Administration must approve the educational program. The amount of such grants must not exceed $3,000 per academic year and the grant can be cancelled at the rate of twenty five per cent of the annual amount for every year of an individual's service as a full-time officer or employee of a law enforcement agency.

FEDERAL CREDIT FUNDING FOR PART E FUNDS

(g) Provides that, in disbursing "discretionary" funds under Part E the Administration shall reimburse states and local governments for expenditures which they have made without federal assistance and which have demonstrably improved the correctional institutions or facilities of that jurisdiction.

PROHIBITION OF CONFLICT OF INTEREST

(h) Prohibits party from being present and voting upon an application in which he has an interest.

REPEAL OF CURRENT LAW

Section 103. Commencing fiscal year 1976, July 1, 1975, Part B (Planning Grants), Part C (Grants for Law Enforcement Purposes) and Part E (Grants for Correctional Institution and Facilities of the current L.E.A.A. Act are repealed. At that time, Title II of this Act shall become effective and shall supplement Parts B, C, and E of the current Act.

TITLE II—LAW ENFORCEMENT AND CRIMINAL JUSTICE PROGRAM

This title authorizes appropriations for fiscal years 1976, 1977, and 1978 and sets forth the revised structure of the Law Enforcement Assistance Administration commencing in fiscal year 1976, July 1, 1975.

AUTHORIZATION AND ALLOCATION OF FUNDS

SECTION 201. (a) Authorizes appropriations for L.E.A.A. for fiscal year 1976 in the amount of $937,125,000, for fiscal year 1977 in the amount of $983,981,250, and for fiscal year 1978 in the amount of $1,033,180,323.

(b) Allocates the funds authorized as follows:

(1) Ten per cent shall be expended upon the National Institute of Law Enforcement and Criminal Justice and the Law Enforcement Education Program. The Administration will determine how much of the ten per cent will be allocated to the Institute and how much will be allocated to LEEP.

(2) Fifteen per cent shall be expended upon programs at the discretion of the L.E.A.A. Administration. Special emphasis will be given to counties and cities which are identified as high crime areas as well as to federal credit funding, as described in Section 102 (c).

(3) The remaining seventy five per cent shall be allocated directly to states and established units of local government in accordance with the provisions of Section 202 (a). Each of the recipient states and units of local government will be required to spend not less than ten or more than 40 per cent of their funds upon each of the following areas: law enforcement, corrections, courts and judicial administration, juvenile justice, and criminal justice planning. If a unit of government does not exercise jurisdiction over one of the above areas, the minimum funding which must be expended upon that area will be disbursed to the larger governmental unit which exercises jurisdiction over that type of program. For example, if City A is located in County B and City A does not exercise jurisdiction over courts, the ten per cent which must be expended upon courts in City A will be distributed to County B to be expended upon its court system.

DISTRIBUTION OF FUNDS

SEC. 202. (a) Seventy five per centum of funds under this title [described in section 201(b) (3)] shall be allocated directly according to population to established units of local government with a population of 100,000 or more persons and to states, for use in those areas of the state not within the jurisdiction of eligible units of local government as well as for programs and projects subject to the general jurisdiction of the state or a state agency.

(b) The Administrator of L.E.A.A. shall determine how, in contiguous or overlapping units of local government, each unit receives its share of L.E.A.A. funds, but no person is counted more than once, and shall insure that the funds are distributed directly to those units.

(c) Not less than three months prior to the beginning of each fiscal year, the Administrator shall determine which units are eligible and for what amounts and shall publish that determination in the Federal Register. He shall also publish the amount of funds actually appropriated and distributed as soon as practicable after the funds have been appropriated.

(d) If an eligible unit refuses to accept funds under this Act, those funds to which it would have been entitled shall be disbursed to the State in which that unit is located for discretionary use within the State.

(e) If a state refuses to accept funds under this Act, those funds to which it would have been entitled shall be available to the Administrator to be spent at his discretion for purposes of this title.

(f) The Administrator is given authority to prescribe regulations to assure that the application of the provisions of this section carry out the purposes of this title.

PROGRAM STATEMENTS AND OTHER REQUIREMENTS

Requires that, at least two months prior to the beginning of any fiscal year, in order to be eligible to receive L.E.A.A. funds, each state and eligible unit of local government must do the following: make available to the Administrator a statement of program objectives and projected uses of funds; have developed procedures by which all applications for funds will be approved or rejected within sixty days; have established policies and procedures which assure that federal funds will supplement and not substitute for local funds; and, have developed procedures to evaluate the success or failure of programs assisted under this title. The Administration shall publish the program statements and the Institute shall review and comment upon those statements. In so doing, the Institute shall give specific attention to seven factors listed in section 203(b). The Institute shall also provide comments and recommendations to each state and eligible unit of local government concerning possible duplication of programs, coordination and integration with state and local law enforcement and criminal justice programs and activities. At the end of each year, each state and eligible unit of local government shall publish an annual report on the uses of funds during the year then ending.

RECORDS, AUDITS, AND REPORTS

SEC. 204 sets forth standard federal auditing requirements.

RECOVERY OF FUNDS

Section 205 sets forth a procedure whereby the Administrator can recover funds from a state or unit of local government when he has determined that that state or local government unit has failed to comply substantially with the provisions of this Act.

GENERAL PROVISIONS

SEC. 206. (a) Allows the Administration to prescribe rules, regulations, and standards as may be necessary to carry out the purposes and conditions of this title.

(b) Specifies that funds distributed under this title shall be considered as federal financial assistance under Title VI of the Civil Rights Act of 1964 and, therefore, shall be subject to the provisions thereof.

(c) Defines "State" to include the fifty States, the Commonwealth of Puerto Rico, the District of Columbia, Guam or the Virgin Islands and defines "eligible units of general local government" to include an existing unit of local government with a population of 100,000 or more persons.

By Mr. METCALF:

S. 1498. A bill relating to the sale of certain timber, cordwood, and other forest products. Referred to the Committee on Interior and Insular Affairs.

SALE OF MATERIAL ON PUBLIC LANDS

Mr. METCALF. Mr. President, I introduce for appropriate reference a bill to amend chapter 15 of the Mining Lands and Mining Laws, 30 United States Code, sections 601–604, and related laws. This act provides general authority to sell a variety of mineral and vegetative materials from public lands, including such Federal holdings as the national forests. It authorizes large competitive sales, small negotiated sales, and deals also with regulation of vegetative material—everything from ferns to timber.

For a number of reasons these acts need to be modernized and that is one purpose of my bill. Another is to improve the ability of the Bureau of Land Management and the Forest Service to make small sales of forest products, especially on a semicompetitive or on a negotiated basis.

One special area of concern to me is improvement in the sale of salvage forest products on the public lands. For example, the Forest Service has a $2,000 limit on the sale of salvage forest products by other than advertised competitive sales. The authority in title 30 of the United States Code permits the sale of up to 250,000 board feet of timber by other than an advertised sale; however, the law is not clear and the Forest Service cannot use this authority.

On the other hand, there is a wide variation in the value that 250,000 board feet of timber may have in Montana, Washington, or Arizona. My bill seeks to make these authorities consistent. In addition, it seeks to give the land management agencies the opportunity to review the service they ought to be giving to smaller producers of common varieties of materials and minerals, various vegetative products, and timber, to improve resource utilization and better meet their obligation to the small businessman.

Last fall I met with a number of very small forest producers. Because they have severely limited capital they can purchase only small sales.

They described to me the numerous opportunities to comb the forest—either following up after a large timber sale,

or picking up small clumps of dead, dying, or diseased trees.

Such sales are now limited by law and regulation, and by procedures which make them more costly to the agencies to process than they ought to be. They also impose burdens on the small gypo logger that reduce his chance to break even.

In the broader and larger picture of timber supply and demand, these sales are not going to change the national picture. However, they could transform the present marginal operator into a taxpaying small businessman while contributing as well to forest improvement.

We need to keep in mind that some trees are affected by a disease that may damage part of them and that other trees die naturally, singly, or in clumps. The salvage sale is thus an important tool in efficient forest management, for it is selection cutting of a sort that ought to be encouraged.

I expect to schedule the bill for early consideration by the Interior Subcommittee on Minerals, Materials, and Fuels. The bill would provide for a $5,000 top limit on small negotiated sales and in the case of forest products, a 250,000 board feet limit, whichever is less. I hope the hearings will develop whether this is the best way to encourage this program, while providing sensible limits. I hope that the Forest Service will be prepared to discuss its current $300 limit on a single green slip sale. The agencies should be prepared to address the issue of proper pricing.

While I have not included in the bill a provision to amend the reporting requirements in 30 United States Code, section 602(b), I would be interested in views on how these can be simplified with adquate protection to the public interest. Finally, agencies can suggest ways to improve the on-the-ground service to small operators while getting the maximum in forest management benefits.

ADDITIONAL COSPONSORS OF BILLS AND JOINT RESOLUTIONS

S. 429

Mr. ROBERT C. BYRD. Mr. President, at the request of the distinguished Senator from Washington (Mr. MAGNUSON), I ask unanimous consent that the distinguished Senator from California (Mr. CRANSTON), and the distinguished Senator from Illinois (Mr. PERCY) be added as cosponsors of the Children's Dental Health Act (S. 429).

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

S. 1079

At the request of Mr. FONG, the Senator from New York (Mr. JAVITS) was added as a cosponsor of S. 1079, to establish an Advisory Commission on the Reconstruction and Redevelopment of Southeast Asia.

S. 1221

At the request of Mr. BIBLE, the Senator from Nevada (Mr. CANNON), the Senator from Colorado (Mr. DOMINICK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Michigan (Mr. HART), the Senator from Hawaii (Mr. INOUYE), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Rhode Island (Mr. PASTORE), the Senator from Wisconsin (Mr. PROXMIRE), the Senator from Illinois (Mr. STEVENSON), and the Senator from North Dakota (Mr. YOUNG) were added as cosponsors of S. 1221, a bill to provide that Federal employees shall be entitled to accumulate annual leave in excess of 30 days, or receive payment therefor, for periods such employees have been in a missing status while serving in Southeast Asia during the Vietnam era.

S. 1431

At the request of Mr. HELMS, the Senator from Virginia (Mr. HARRY F. BYRD, JR.) and the Senator from Arizona (Mr. FANNIN) were added as cosponsors of S. 1431, to provide for the continuation of programs authorized under the Vocational Rehabilitation Act, and for other purposes.

SENATE JOINT RESOLUTION 24

At the request of Mr. MCINTYRE, the Senator from New York (Mr. BUCKLEY), the Senator from North Carolina (Mr. ERVIN), and the Senator from South Carolina (Mr. HOLLINGS) were added as cosponsors of Senate Joint Resolution 24, to declare the fourth Saturday of each September as "National Hunting and Fishing Day."

SENATE JOINT RESOLUTION 74

At the request of Mr. SPARKMAN, the Senator from Indiana (Mr. BAYH) was added as a cosponsor of Senate Joint Resolution 74, to authorize the President to issue a proclamation designating the last full calendar week in April of each year as "National Secretaries Week."

SENATE CONCURRENT RESOLUTION 21—SUBMISSION OF A CONCURRENT RESOLUTION RELATING TO THE PRINCIPLE OF UNIVERSALITY FOR THE UNITED NATIONS

(Referred to the Committee on Foreign Relations.)

DIVIDED NATIONS' ENTRY IN THE UNITED NATIONS

Mr. GRAVEL. Mr. President, in the past several years one of the main thrusts of our foreign policy has been the normalization of relations with many nations which we have previously excluded from the world stage because of their political philosophies. The continued existence of these governments, despite our refusal to deal with them as equals, combined with our Government's desire to ease world tension has made us recognize that the continued isolation of some nations from the various international forums is detrimental to our own long-range policy goals. In pursuing the beginnings of a new policy, the President, last year, made his historic trips to China and the Soviet Union. It will be some time yet before all the results of his trips will be known, but one immediate and positive result has been the People's Republic of China's entry into the United Nations.

It cannot be denied that such action has further legitimized a government whose political philosophy is contrary to that of our Nation. This is more than offset, however, by China's new status which gives her more of a stake in the current world order and less reason to resort to violence for the purpose of being noticed or consulted in matters of world affairs. Such legitimization, therefore, works to the benefit of any nation which desires to lessen tension and reduce the level of violence around the world. The United States is such a nation. In our changing policies toward the Communist nations we have demonstrated our awareness of the benefits to be gained by the world in the normalization of our relations.

In support of this goal of peace and cooperation, I am submitting a resolution for the purpose of expressing the sense of the Senate on the matter of divided-nation entry into the United Nations. Such entry would be a further step down the road on which we have already begun to travel. It is a necessary step along that road because the divided nations are great sources of possible conflict. It is important that every opportunity be provided to them for legitimate complaint, discussion, and debate of their problems in order to forestall any hasty resort to violence.

The admission of the divided nations to membership in the United Nations is clearly in the interests of the United States. It is also clearly within the bounds of our current foreign policy goals as manifest in the words and actions of the President and his advisers. Such being the case, I urge my fellow Members of the Senate to support this resolution.

I ask unanimous consent that the concurrent resolution be printed at this point in the RECORD.

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

S. CON. RES. 21

Resolved by the Senate (the House of Representatives concurring), That the Congress hereby finds that to achieve universality of membership in the United Nations would significantly enhance the ability of that body to preserve international peace and to carry out its other responsibilities for promoting and maintaining world cooperation as set forth in the United Nations Charter. Therefore, to that end, it is the sense of the Congress that it should be the policy of the United States actively to support the admission to membership in the United Nations of the Federal Republic of Germany, the German Democratic Republic, the Republic of Korea, the People's Democratic Republic of Korea, the Republic of Vietnam, and the Democratic Republic of Vietnam.

SENATE RESOLUTION 94—SUBMISSION OF A RESOLUTION RELATING TO IMPORTATION OF OIL

(Referred to the Committee on Foreign Relations.)

Mr. STEVENS. Mr. President, today on behalf of myself, the Senator from Maryland (Mr. BEALL), the Senator from Tennessee (Mr. BROCK), the Senator from Kentucky (Mr. COOK), the Senator from Arizona (Mr. GOLDWATER), the Senator from Alaska (Mr. GRAVEL), the Senator from Iowa (Mr. HUGHES), the Senator from New York (Mr. JAVITS), and the Senator from Connecticut (Mr. RIBICOFF), I am introducing a Senate resolution requesting the President to com-

mence negotiations for the convening of a convention of major oil-importing countries to establish an international organization of major oil-importing nations and to establish common practices and policies affecting oil pricing, importation, and consumption.

The oil-consuming nations of the world must stand together and have a common policy to offset that of the Organization of Petroleum Exporting Countries—OPEC. Nations such as the United States, Western Europe, and Japan must combine forces so that Middle East nations supplying most of our oil will not be able to continue to bid up the price of petroleum and impose their international policies on us.

By this country's increased reliance on Arab oil, we have put ourselves in a distressing international situation. Arab nations are utilizing their oil revenues for their maximum economic advantage. They are also using their resources to counter American foreign policy. The United States is, on the one hand, firmly committed to a free and independent State of Israel. On the other, we are continuing to rely on oil from a number of countries in the Middle East who are basically committed to the annihilation of the Jewish State. These countries are utilizing funds from oil royalities in three ways.

First, they are utilizing their tremendous cash reserves to devalue the dollar. One of the most important issues facing the American economy today is the international position of the dollar and its effect on the balance of trade. The dollar's devaluation abroad will have long range effects, not only on the country as a whole, but on each individual citizen and his purchasing power. As the dollar devaluates, the international purchasing power of American citizens also diminishes.

The causes of the devaluation of the dollar are also much more difficult for this country to control. Foreign nations, led by the Arab States, have created a run on the dollar on foreign monetary exchanges. Because of this Nation's support for Israel, these countries have used their wealth to wreak international havoc, not only on the citizens of this country, but on all foreign citizens and foreign governments who have put their trust in the soundness of the dollar.

Because of this international monetary speculation, the dollar has undergone a forced devaluation twice recently.

The second devaluation was caused in large part by Arab oil money. It is estimated that as much as one half of the $6 billion in speculative money that reached Frankfort in mid-February consisted of Arab owned American dollars. Oil revenues formed the source of most of this money. Many of these dollars came from the United States. Because of our reliance on Arab oil, we have inadvertently contributed to the devaluation of our own dollar and a significant loss of purchasing power.

Second, after the 10-percent dollar devaluation, the oil producing countries recently indicated they will raise the price of oil 10 percent. This appears to be the second step in this international money manipulation.

Third, certain Arab countries have called on other Arab States to withhold oil supplies from nations aiding Israel. For example, Iraq has asked for the nationalization of oil and other interests owned by nationals of any country assisting the State of Israel. These same countries also demand that nations aiding Israel and purchasing Arab oil do all in their power to cause Israel to withdraw unconditionally from all territories occupied as a result of the 1967 war. Finally, these same nations demand that other Arab countries utilize their wealth to fight Israel.

These complex international repercussions reflect the difficult situation the United States has placed itself in by becoming reliant on Middle East oil. Financial pressure from these Arab States will continue until the United States develops domestic oil sources. The safest alternative to this untenable situation is to develop our domestic supplies as rapidly as possible. However, even if we begin to develop all our domestic sources now, it will be some time before we can eliminate our dependence on foreign oil. And we have not yet begun to develop all our domestic supplies.

The 11 major oil producing countries already operate as a cartel—OPEC.

As Joseph Kraft stated in his column in the Washington Post on Sunday, March 25, 1973:

> Why couldn't the power of the oil-producing countries, which now coordinate their tactics in a cartel, be constrained by a counter-cartel of the assuming countries that would link the United States and Japan and Western Europe?

Walter Levy, an oil industry consultant, has also suggested this approach. Speaking last week before the European-American Conference in Amsterdam, Levy proposed a 10-point program for such an international organization. I request unanimous consent that an article describing this suggestion be inserted in the CONGRESSIONAL RECORD at this point.

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

[From the Oil Daily, Mar. 28, 1973]

TO PROTECT IMPORTING COMPANIES—OIL ALLIANCE SUGGESTED

AMSTERDAM, HOLLAND.—A veteran independent oil industry consultant suggested the Atlantic oil importing countries and Japan form an alliance to "try to cope with the common problems of the security of oil supplies and the financial issues related to it."

Walter J. Levy, owner of Walter J. Levy Association, New York, spoke at the Europe-America Conference here, sponsored by the European Movement.

He suggested these duties for an oil importing nations' organization:

"(1) Study and review of energy demand and supply including tanker, pipeline, and refining availabilities. A program for optimum diversification of supplies.

"(2) A coordinated and/or joint research program for the development of new energy resources.

"(3) Development of conventional and new energy resources.

"(4) Review of arrangements by importing countries for oil supplies from producing countries and the establishment of broad terms of reference and/or of parameters for arrangements, acceptable to importing countries.

"(5) Arrangements for stockpiling, rationing, and equitable sharing of import availabilities in case of an emergency.

"(6) A program on conservation of energy.

"(7) Review and coordination of programs of economic development and technical assistance for producing countries.

"(8) Review of prices, costs, balance of payments effects of oil imports of member countries and also of developing countries; arrangements for support and adjustment if called for.

"(9) Review of government revenues of major oil producing countries and of their impact on world trade, world capital flows and short-term money markets; and a program of financial cooperation.

"(10) A review of the dependency of Middle East producing countries on the exports of industrial and agricultural goods and of military equipment, on shipping, services, technical know-how, etc., from the free world's oil importing countries and a continuous assessment of mutual interdependence; and also of all the means that might be available to cope with an oil supply, trade or finance emergency."

Levy suggested two possible sources of the energy policy: a special new high level international energy council, with member states and a permanent staff, or restructuring of the present OECD oil committee or its High Level Committee to implement the policy.

Its policy framework should set the limits within which the countries as well as the oil companies would handle their affairs, with some provision for changes, Levy said.

One of the important functions of the energy council would be to see that an oil embargo by producing countries became "difficult, if not practically impossible," Levy remarked.

He explained this would be done through stockpiling, coordination of rationing policy, and "especially through an emergency import-sharing agreement" among the members.

This would allow supply-demand adjustments to be made, provide time to solve any disputes with the oil-producing countries, or, at the worst, allow the importing countries to initiate necessary security measures, he said.

The council would also provide a place for discussion of matters affecting more than one member, such as a supply shortage by one country forcing it to buy up a lot of foreign crude, Levy noted.

It would provide "broad terms of reference" for use when negotiating with the oil producing countries, and reduce the importers' risk of being subject to the producers' unilateral demands, Levy said. The council would provide backing for the oil companies in their negotiations.

The oil producing countries know if their relations with free world countries deteriorate, they will have to depend on Soviet support, which hasn't nearly the benefits to them of western trade, and also involves political risks, Levy said.

Although Levy acknowledged the formation of a council would necessarily involve governments in the oil industry to a considerable extent, he said "there are no realistic alternatives."

Mr. STEVENS. This legislation I am introducing today will establish a countercartel of the major oil-consuming countries.

This resolution by the Senate will urge the President of the United States to enter into negotiations with the major oil-producing countries to do two things:

First. Establish an international organization of oil-importing countries; and

Second. Establish common practices and policies affecting oil pricing, importation, and consumption.

We must act now, or the oil-producing countries will continue to use their natural resources to obtain even greater cash reserves and thus increase their leverage internationally.

I request unanimous consent that three articles describing the international Middle East oil situation be placed in the CONGRESSIONAL RECORD and followed by my resolution in its entirety. The first article is entitled "Arab Oil Money Hurt Dollar." It appeared in the Washington Post on Monday, March 5, 1973, at page A–20. The second, entitled "Oil Nations Ask Rise for Devaluation," appeared in the Washington Post on Friday, March 23, at page A–26. The third, entitled "Arabs Asked To Stop Oil to Nations Aiding Israel," appeared in the Oil Daily on Wednesday, March 7, 1973, at page 2. Finally, I request that the resolution, Senate Resolution 94, be printed in the CONGRESSIONAL RECORD in its entirety.

I request unanimous consent that my staff be permitted to orally inform the official reporter of additional cosponsors of the bill until the close of business today.

There being no objection, it was so ordered and the articles and resolution were ordered to be printed in the RECORD, as follows:

ARAB OIL MONEY HURT DOLLAR

(By Ronald Koven and David B. Ottaway)

Arab oil money played a large part in the monetary crisis which forced a second devaluation of the dollar last month, according to both Arab and U.S. officials.

Some well-placed Arab sources claim that as much as half of the $6 billion in speculative money that flowed to Frankfurt in mid-February consisted of Arab-owned Eurodollars. U.S. sources view that as somewhat exaggerated, but they readily concede that Arab money accounted for at least $1 billion.

The last official estimate of the Bank for International Settlements is that the Middle Eastern countries hold $7.5 billion of the $80 billion in the Eurodollar market, made up of dollars circulating in Europe and not repatriated to the United States.

There has been growing concern in the U.S. government that the Arab oil-producing states, whose steadily mounting official bank holdings are now calculated at about $12 billion, might be tempted to use their monetary clout for political ends. Their reserves are expected to double in the next three years.

Private holdings of the Arab ruling families are thought to be roughly equal to the official government reserves in many of the oil states.

Despite urgings by radical Arabs that the oil money be used deliberately to pressure the United States into changing its Middle East policy, it is generally believed that, with the possible exception of Libya, the Arab money was moved in February in response to the normal instinct of monetary self-preservation.

It is widely conceded that the major U.S. oil companies also played a large part in the Frankfurt speculation and that the Arab governments simply followed their lead in their instance.

There is some dispute whether Saudi Arabia, the superpower of the oil exporters and perhaps Washington's closest Arab ally, took part in the attack against the dollar.

Saudi sources insist that they simply took a heavy loss on the devaluation, keeping their $3 billion in reserves where it was bound to suffer in any devaluation. But other knowledgeable Arab sources contend that the Saudis also tried to protect their dollar holdings, along with most of the other Arab governments.

U.S. sources tend to believe that Libya, the most politically motivated of the large Arab fund holders, was one of the most active speculators. The Libyans are known to have attacked the British pound in the past for purely political reasons.

Pinning down the source of such "hot money" flows, however, is very difficult.

If an order to switch from dollars to West German marks comes from an Arab account in Beirut through a corresponding Swiss bank, there is no way for money changers in Frankfurt to know exactly who placed the order. There is hard evidence, however, that Arab officials in Beirut are trying to keep track of who does what, and the Arab League is known to have conducted a detailed study of the subject.

It is far too early even to make an educated guess of who is behind the latest attack on the dollar in which West German central bank was forced on Thursday to buy up almost $3 billion, the record for a single day.

The problem of determining who the speculators are will be a key consideration in a forthcoming Senate Foreign Relations Committee investigation to be conducted by the subcommittee on multinational corporations headed by Sen. Frank Church (D-Idaho).

Sources close to the preparations for that inquiry are expressing shock that the U.S. government has so little hard information on who has been speculating against the dollar.

But banking sources say that, of the major U.S. and foreign corporations operating across national boundaries, the oil companies are the most prone to play the money markets. This is because they must pay huge sums to the Arab oil states, and the companies try to settle their debts in the most advantageous way.

Thus, if there is $100 million to be paid to Kuwait in three months, for example, an oil company might be tempted to buy marks now in anticipation of a dollar devaluation or an upward revaluation of the mark.

If the bet is correct, the company could make a tidy profit, buying back the $100 million it needs to pay Kuwait and pocketing $10 million in marks in addition in a 10 per cent devaluation.

This practice, known as "leads and lags," is a contagious example for the Arab treasuries, whose officials have often been tutored by the Western oil companies.

An Arab League study by Prof. Youssef Sayegh, head of the economics department at the American University of Beirut and a prominent Palestinian, concluded, however, that there are some limitations to the use of oil money as a political weapon.

He cited the case of a huge, politically motivated transfer (more than $1 billion according to one estimate) of Libyan funds from Britain to France in late 1971.

Sayegh said that most of the Libyan money found its way back to British banks within a week because there was essentially nowhere else for it to be absorbed. "The Arabs are prisoners of their own funds," he concluded.

The militant Libyan government, with official reserves now estimated at more than $3 billion, is considered so far to be the only Arab state with both the resources and the inclination to use its money holdings for political purposes.

Equally militant Iraq, a country now in heavy financial difficulties, is potentially more troublesome for the monetary system than Libya, however.

While Libya's oil reserves are limited and its production has been cut back, Iraq is now considered to have the second largest reserves in the Middle East after Saudi Arabia. It plans to expand its production after just settling a nationalization dispute with Western companies. Until recently, non-Arab Iran was traditionally ranked as the Middle East's second largest oil source. But recent official estimates are that Iraq's oil potential far outstrips Iran's.

For the moment, however, Western worries about Arab oil money's place in the international monetary system are largely confined to the manipulations of the coffers of such traditionalist kingdoms and sheikhdoms as Saudi Arabia, Kuwait, Abu Dhabi, Bahrein and Qatar.

Their current monetary tactics are still thought to be purely motivated by profit-taking and self-protection. That, as recent events in Frankfurt have proven, is threat enough to force the burning of the proverbial midnight oil in the chanceries of the West.

It is clear, however, that those traditionalist Arab states are becoming conscious of the leverage they can have on the monetary system at crucial moments.

When the United States had its first devaluation, in December 1971, the Arab states were just beginning to build up their reserves. Since then, official Saudi dollar holdings have nearly tripled. With more to lose than before, the Saudis and others are demanding to know whether their friendship with the United States will continue to cost them money every time there is a devaluation, not to speak of the cost to their position in the Arab world if Washington continues to back Israel against the Arab cause.

OIL NATIONS ASK RISE FOR DEVALUATION

(By Jim Hoagland)

BEIRUT, March 22.—The major petroleum-exporting countries decided today to seek increased payments from Western oil companies to compensate for last month's 10 per cent devaluation of the dollar.

If successful, the move by the ministerial committee of the 11-member Organization of Petroleum Exporting Countries could add significantly to American balance of payments problems and create new international inflationary pressures, especially in Western Europe and Japan, where most exports of OPEC members are consumed.

The committee voted after meeting briefly here to set up a three-member "negotiating team" that will contact the oil companies immediately to discuss amending an agreement reached in Geneva last year that sets devaluation compensation for the six main Persian Gulf oil producers.

The Geneva agreement, which has set the pattern for similar compensation to all OPEC members, provides for a quarterly review of currency fluctuations. Under this formula the producing companies are due to get a 6 per cent increase to compensate for the latest devaluation.

But the team is empowered to act "with a view to obtaining full compensation as a result of the devaluation," a press release issued after the OPEC meeting said. OPEC sources said the team would open talks with the American, British and European oil companies by mid-April.

With oil prices rising as fears of fuel shortage become more pronounced in industrialized countries, an increase of even a few percentage points will cost consumers tens of millions of dollars this year alone.

The oil companies, which routinely raise their own prices after each new set of demands from the producing countries, may be able to argue to OPEC that many of the more recent contracts call for payments in hard currencies other than dollars in any event.

But the composition of the negotiating team indicates that OPEC intends to press the issue. Iraq, Libya and Kuwait—the three

countries said to have pressed hardest for a full 10 per cent claim at the meeting today—form the unit, which is headed by Libya's oil minister, Izzidan Mabrouk.

OPEC countries produce more than 80 per cent of the world's petroleum exports and have helped drive oil prices up sharply over the past two years by demanding higher payments and increased control over production and marketing.

The gulf countries that signed the Geneva agreement are Abu Dhabi, Iran, Iraq, Kuwait, Qatar and Saudi Arabia. Algeria, Indonesia, Venezuela and Nigeria are OPEC's other members.

ARABS ASKED TO STOP OIL TO NATIONS AIDING ISRAEL

BAGHDAD.—Iraq has called on Arab states to withhold oil supplies from countries which fail to heed a demand to halt all military, political and economic aid to Israel, the semi-official daily "Al-Thawra" said. It has also called for the nationalization of oil and other interests owned by any country which fails to comply with such a demand, the newspaper added.

"Al-Thawra publishing a summary of a nine-point plan submitted by the Iraq delegation in an Arab defense council meeting in Cairo late last month said the proposals had been opposed by some delegations. Others had shrugged them off or received them with good intentions but asked that Iraq should resort to realism. The plan was referred to a committee of experts for further study.

The proposals said that all countries concerned including the United States and European nations—should be notified that they must stop all military, political and economic aid to Israel and do all in their power to pressure her into unconditionally withdrawing from all occupied Arab territory. Arab states should then withhold oil supplies from countries which failed to comply, and if possible nationalize oil and other interests owned by such states.

The plan also asked Arab states to withdraw their balances from American and European banks and put these in the service of the national battle against Israel.

S. RES. 94

Whereas the world presently faces a serious energy crisis;

Whereas the major oil producing countries in certain parts of the world have combined to utilize their resources for their own economic and political advantage;

Whereas these countries have utilized this advantage to control world oil prices and to force their national policies on the rest of the world;

Whereas the major oil consuming and importing countries have not combined in a similar manner to prevent an energy crisis and to insure the free flow of oil;

Whereas the United States is currently experiencing a major energy crisis; and

Whereas the United States has felt strong political and economic pressures brought by these oil producing countries: Now, therefore, be it

Resolved, That the President is requested to enter into negotiations with the major oil importing countries for the purposes of establishing an international organization of oil importing countries and establishing common practices and policies affecting oil pricing, importation, and consumption.

A NEEDED FIRST STEP TO MEET THE GROWING ENERGY CRISIS

Mr. RIBICOFF. Mr. President, I am pleased to cosponsor the resolution being introduced today by the distinguished senior Senator from Alaska (Mr. STEVENS).

The United States obviously needs a coordinated, farsighted energy policy if we are to avoid empty gasoline tanks this summer and unheated homes next winter.

We have already had a foretaste of the crippling effects of such shortages last winter with schools shut in Denver, workers laid off in Alabama and Louisiana, and shortages and higher prices for heating oil in New England.

But we are not alone in facing the spectre of an energy crisis. The nations of Western Europe and Japan also have an enormous stake in insuring an uninterrupted flow of oil at reasonable prices. Until the United States achieves, or is close to self-sufficiency in energy, we must meet head-on the threats posed to monetary stability and our basic foreign policies by hostile actions on the part of the oil-producing states.

Already there is strong reason to believe that the most recent monetary crisis leading to the devaluation of the dollar was caused by a shifting of currencies by oil-producing states. I am awaiting details of who profited from these shifts based on the questions I posed to CIEP Director, Peter Flanigan, during recent hearings before by Subcommittee on International Trade.

An article last month in the Wall Street Journal entitled "Middle East Oil Funds Play an Increasing Role in Monetary Turmoil," analyzed this new situation. With enormous oil revenues at the disposal of the Arab oil-producing states, and with reserves amounting to hundreds of billions of dollars by 1985, the potential for monetary disaster is apparent.

Unfortunately, our own Government is ill-prepared to effectively deal with the many questions raised by our energy needs. Along with the rest of my Senate colleagues, I am anxiously awaiting the President's forthcoming energy message. But there is something that can be done prior to embarking on costly, long-range programs.

It is obvious by now that we cannot leave negotiations with the cartel of oil-producing countries, OPEC, up to the private oil companies alone. Despite their vast wealth and long experience in the various facets of petroleum production and marketing, these companies are in an unequal contest when faced with the combined bargaining power of the oil-producing states.

Energy resources today are as essential to the well-being of every American as the air we breathe and the water we drink.

An essential first step in meeting the challenge posed by the Arab oil producers is for the oil-importing countries themselves to organize to establish common policies regarding oil prices and the availability of supplies.

The resolution we are introducing today requests the President to begin talks with foreign countries for the purpose of creating such an organization. I urge the President to do so without delay. Each day that we hesitate to take this needed action increases the probability that we will have to pay a much higher price later for failing to deal with oil on a government-to-government basis.

I ask unanimous consent that the front page article from the Wall Street Journal, I alluded to earlier, be printed in the RECORD.

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

LIQUID ASSETS: MIDDLE EAST OIL FUNDS PLAY AN INCREASING ROLE IN MONETARY TURMOIL—DESPITE EARLIER ASSURANCES, ARABS HELPED SINK DOLLAR; IRAQ AIDE: "WE PROFITED"—"HOW CAN YOU BLAME THEM?"

(By Charles N. Stabler and Ray Vicker)

The prospects for any lasting stability in the world's monetary system seem dubious indeed. And a major reason is the role played by Middle Eastern nations in the turmoil in gold and foreign-exchange markets.

This is the gloomy conclusion of some international economists and other analysts, who have watched with alarm as oil money flooded first into Swiss francs, then into German marks and now into gold. How much of this volatile money is involved in the current crisis can't be determined, but, whatever it is, the volume is bound to rise in future years. This means that a major and growing source of instability is being added to an international monetary system already tottering under massive money flows from international corporations and speculators. And, most analysts agree, there isn't much, if anything, that can be done about it.

"The problem poses nearly impossible dilemmas," says Walter J. Levy, a New York petroleum-industry consultant. "Any way you try to sterilize the money (from oil sales) or put rules on (the oil nations') use of these funds will just mean that they won't increase production" to meet the world's growing energy needs.

OIL ON TROUBLED WATERS

The Middle Eastern threat to the world's monetary system had been anticipated by many analysts. But prior to the recent flare-up of money troubles and the devaluation of the dollar Arab leaders had been making soothing statements. They would not, they said, use their funds to disturb the monetary system any more than they would use them for political pressures in the turbulent Middle East.

Just days before the flare-up, for example, Anwar Ali, the governor of Saudi Arabia's monetary agency, said, "We realize it is to our advantage to handle our surplus funds in a manner that doesn't disrupt the system. Stability is as important to us as it is to the Western world."

But with the first breath of doubt over the dollar, official agencies of the oil states took steps to protect themselves, some of them now confirm. And there seems little doubt that their sales of threatened dollars helped bring that currency down, just as their purchases of German marks, Swiss francs and gold are driving those prices up.

CRIME AND PUNISHMENT

"Who can blame them?" a New York banker asks with a sigh. "The head of an Arabian central (government) bank is in the same position as the treasurer of a multinational company, only worse. If the Arab gets caught in a devaluation, they cut off his head."

In London, an official of a major American bank says: "It's common knowledge around the London money market that a considerable volume of Middle Eastern money was getting out of the dollar in the recent monetary crisis. It probably will go back into dollars before long, until the next money crisis."

Like international money managers everywhere, most Arab officials are closemouthed about their operations. But some are willing to talk.

"We profited from the devaluation of the dollar," an Iraqi government official says in Baghdad. In Kuwait, which reportedly threw

hundreds of millions of dollars on the market in the days leading up to devaluation, a government agency now says: "Precautions had been taken in anticipation of possible devaluation." Similar reports come from Jedda in Saudi Arabia. In Tripoli, a Libyan source says, "We have been protecting ourselves."

THE ART OF SELF-PROTECTION

In foreign-exchange trading, protection means cutting the risk of loss caused by a reduction in the value of foreign funds held, mostly dollars. When the dollar appears weak, these assets are exchanged for stronger currencies, such as the Swiss franc or mark. Then, if devaluation occurs, the upward revaluation of the strong currencies results in a profit. This profit affects the loss on dollars still on hand or on those sold earlier at low prices.

Kuwait, for example, has the equivalent of $2.5 billion in officially held foreign-exchange assets. But, according to the finance ministry, only about $300 million was "fully exposed" to devaluation of the dollar.

Reserves of Middle East nations are held as deposits with commercial banks, in Eurodollar investments, in gold and in financial instruments of various governments and agencies. Because the U.S. has frowned upon central-bank investments in Eurodollars—that is, dollars on deposit abroad—big European central banks have all but withdrawn from this market. But, central banks of smaller nations have taken their places.

One major American bank recently made a confidential survey of the Eurodollar market. It concluded that as much as $15 billion of the $80 billion total outstanding had come from central banks. A little under half that total may be from Middle Eastern and North African countries, one official of this bank says.

Money in the Eurodollar market may be transferred fast into a strong currency in any money crisis. Because any such money goes through Commercial banks, it is almost impossible for any outsider to evaluate totals. A Middle Eastern nation, for instance, may have funds with a dozen different banks from First National City Bank to Union Bank of Switzerland in Zurich and from Bank of America to Deutsche Bank in Frankfurt.

If there is any dollar dumping, a foreign-exchange dealer may not know the source of it; he is usually dealing with commercial banks. Incoming dollars may be received by the dealer as if they were holdings of the banks rather than of their clients. Moreover, banks, mindful of the huge amounts of business that may be coming their way in the future from the Mideast, fear being connected in any way with discussions of customer habits and inclinations.

When one London branch of an American bank is asked for information, a spokesman pleads, "Don't even call us a New York bank. Say we are in Philadelphia." Then he relents to add: "All right, make it New York, but please don't call us a *big* New York bank."

Central-bank holdings, of course, represent only a part of the money in the Mideast. There are substantial private holdings in the Persian Gulf, in major Saudi Arabian cities and in Lebanon. One estimate, made by the Financial Times of London, places Kuwait's total foreign holdings at about $6.6 billion, for instance.

Middle Eastern money is of special significance because that area can claim to be the world's fastest-growing store of capital. And the outlook for better gains in revenues from oil is staggering.

Economists at New York's Chase Manhattan Bank estimate that crude-oil production from the Middle East will double by 1985, rising to 40 million barrels a day, says John D. Emerson, a bank vice president. Saudi Arabia, probably destined to be the world's largest producer of oil, received about $13 billion in oil revenue between 1960 and 1972. During the next 13 years, from 1973 through 1985, "a conservative estimate of Saudi Arabian receipts from oil is $150 billion," Mr. Emerson says.

PROBLEM: HOW TO SPEND MONEY

Add in Kuwait and the Persian Gulf states including Abu Dhabi and Dubai, and expected oil revenues would rise from $27 billion during the last 12 years to $227 billion this year through 1985, Mr. Emerson calculates.

Some of the revenue being collected by these Middle Eastern oil nations can be spent, of course, on domestic economic development. But Mr. Emerson says, "There are limits to the rate at which a country with a small, poorly educated population can spend money."

If one assumes that these countries can spend, say, 50% of their annual oil income on economic development and investment, their reserves of gold and foreign exchange will rise to well over $100 billion in 1985.

"Entire world reserves currently amount to $150 billion," Mr. Emerson says. He adds that he isn't trying to make an accurate prediction of how much Middle Eastern gold and foreign-exchange reserves will actually amount to but is "only trying to show you the extent to which their power and influence in the world of finance will grow."

And political influence will grow, too, some analysts fear. Already, Japan, which is even more dependent on Middle Eastern oil than the U.S. or Europe, "apparently feels it has to be very cognizant of Arab feelings when its delgates vote in the United Nations," one economist says in New York.

Some efforts are already underway to reduce the world's dependence on the Middle East for oil or somehow corral the financial and political problems this reliance brings. One idea: The U.S. could improve its bargaining position with the Middle East by building enough mammoth tanks or other facilities to store a two-year supply of fuel. The cost of this move would add an estimated 40 cents a barrel to the present $3.50-a-barrel price of oil. Thus, although expensive, the move would allow more effective bargaining on future supplies from Arab countries and would provide time for the development of other energy sources.

More immediately, private and official institutions in the West are trying to tap the Middle Eastern money pool for investments. This move is in line with Arab desires and would remove some capital from the "hot-money" flows that periodically disrupt foreign-exchange markets. However, for various political and economic reasons on both sides, prospects are slim for sopping up a substantial amount of oil money in this way.

WORLD BANK AND THE ARABS

The International Bank for Reconstruction and Development (World Bank) sees the Arab nations as a source of funds for relending to other nations. Robert McNamara, who heads the bank, recently visited several Arab nations to make such a pitch.

Venezuela is urging its partners in the Organization of Petroleum Exporting Countries (OPEC) to join in creating an OPEC bank. "The time has arrived for OPEC members to have a bank of their own for financing economic and oil development in their respective countries," says Hugo Perez la Salva, Venezuela's minister of hydrocarbons.

Bank of America and private Middle East investors have set up the Bank of Credit and Commerce-International in Luxembourg. International Maritime Banking of London has opened a Beirut office to cover the Middle East. Britain's National Westminster Bank recently opened an outlet in Bahrain, in the Persian Gulf, to cover the area. Morgan Guaranty has purchased an interest in a Beirut bank. The second-largest bank in Beirut is Moscow Narodny Bank, the Soviet Union's bid for garnering some of the financial traffic in the Middle East.

In Beirut, a key Mideast banking center, 37 of the country's 73 banks are foreign-owned or affiliated, with several big American banks represented.

Union de Banques Arabes et Francaises—a consortium established with Credit Lyonnais, Paris, and 22 leading Arab banks—has established branches in London and Rome. Shortly it plans to open another in Frankfurt. Recently, this consortium extended a $10 million medium-term loan to the Brazilian state of Rio de Janeiro for highway construction. This was a typical type of deal for putting some of the Mideast money to work. Banque Franco-Arabe—a consortium of Societe General of Paris and several private banks in the Persian Gulf—is promoting trade between Europe and the Mideast.

This month another consortium, Compagnie Arabe et Internationale d'Investissement, was formed at Luxembourg, with European and Arab banks as members. Its prospectus says it intends to "contribute to the solving of financial and investment problems which, on account of their new size, will require broad, diversified and powerful international associations."

NOTICE OF HEARINGS BY DISTRICT OF COLUMBIA COMMITTEE ON HOME RULE FOR THE DISTRICT OF COLUMBIA

Mr. EAGLETON. Mr. President, on Wednesday, April 25, 1973, the District of Columbia Committee will hold public hearings on S. 1435, a bill to provide for home rule for the District of Columbia, in room 6226, New Senate Office Building, at 9:30 a.m. Persons wishing to present testimony at these hearings should contact Mr. Robert Harris, Staff Director of the District Committee, room 6222, New Senate Office Building, by Tuesday, April 17, 1973.

NOTICE OF HEARINGS ON S. 1170

Mr. FULBRIGHT. Mr. President, the Committee on Foreign Relations will hold hearings on legislation to authorize appropriations for the Peace Corps, S. 1170, on April 13 at 10 a.m. The hearings will be chaired by Senator McGOVERN.

In addition, the committee will hold hearings on legislation to authorize appropriations for the U.S. Information Agency, S. 1317, on May 7 and 8 at 10 a.m. Senator McGOVERN will chair these hearings also.

Anyone wishing to testify on the above bills should contact Mr. Arthur M. Kuhl, the chief clerk of the committee.

ADDITIONAL STATEMENTS

THE WIT AND WISDOM OF SAM ERVIN

Mr. MANSFIELD. Mr. President, Members of the Senate have always enjoyed the colorful oratory of the senior Senator from North Carolina (Mr. ERVIN). His folk stories and homespun humor have enlivened as well as enlightened our Senate debates.

SAM ERVIN'S rich storehouse of anecdotes has been tapped quite frequently, of late. Apparently, the President's recent statements concerning the scope of executive privilege have inspired Sena-

tor ERVIN to new heights of rhetorical excellence. A North Carolina newspaper, the Raleigh News and Observer, has taken note of this most recent outburst of wit and storytelling. Mr. President, I ask unanimous consent that this article, entitled, "Ervin Puts on Virtuoso Show," be printed at this point in the RECORD.

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

ERVIN PUTS ON VIRTUOSO SHOW

WASHINGTON.—Sen. Sam J. Ervin, Jr., D-N.C., chairman of the Senate select Watergate Committee, quoted from the Bible, a hymn, a poem, Shakespeare and his own rich legacy Monday in a virtuoso performance for reporters.

Here are some of the things the former North Carolina Supreme Court Justice said at a news conference:

When asked how to plug leaks to reporters about private testimony to the committee—"About all you can do in this kind of a situation is to pray the good Lord to give some people the power of restraint, and whether that prayer is answered is dependent on the Lord, not on me."

On turning down a White House offer to permit presidential aides to confer with committee members in executive session or privately—"I'm not going to let anybody come down like Nicodemus by night and whisper something in my ear that the public can't hear."

Talking about the refusal of White House aides to testify before the Senate committee—"Shakespeare asks in one place, 'What meat doth this our Caesar eat that he's grown so great?' There's a lot of talk about meat these days. I just wonder what meat these White House aides eat that makes them grow so great."

Pressed again about how to keep committee members and staff from revealing what is occurring in closed sessions—"Well, Miss Lewis (Carolyn Lewis, CBS), if you can tell me how to keep a senator or a senator's aide from talking, it would be the most miraculous discovery made since the morning stars sang from glory."

Asked what he will do if White House aides refuse to testify—"I come from the Bible Belt and we sing a hymn down there, 'One Step Enough for Me.' I'll take the next step when that step is taken."

THE WOUNDED KNEE MILITANTS AND THE GENOCIDE CONVENTION

Mr. HELMS. Mr. President, for the past several weeks, the American people have been regaled with tales about a lawless group of Indians at Wounded Knee, S. Dak. These Indians, affiliated with the American Indian Movement, are in no way representative of the Sioux in South Dakota nor of the thousands of other decent, law-abiding American Indians throughout the country.

Nonetheless, these lawless few have made demands and have terrorized local residents.

If a treaty that has been reported to the Senate is ratified, these noisy and law-breaking few may cause many problems for the American Government internationally. The treaty of which I am speaking is, of course, the Genocide Convention. Though it cannot be maintained by rational people that the United States is committing genocide against our Indian population, the ratification of this treaty would give a green light to the troublemakers within the United States and to international busybodies who would delight in falsely accusing the United States of all sorts of wild charges, rather than solve their own internal problems.

It is instructive to note in the report on the Genocide Convention from the Senate Foreign Relations Committee of December 8, 1970, that the Convention makes it possible for all types of propaganda charges to be raised before the International Court of Justice. We have seen all too often that reason does not necessarily prevail in international organizations. It would seem unwise to ratify a convention that even its supporters admit will open us to all types of nuisance propaganda charges. The cause of freedom and peace is not served by the unloosing of international busybodies, or by giving their arrogance a world forum, which they in no way deserve.

To have a stable world, voices of reason must be heard. The Genocide Convention will not help those voices to be heard.

BILL BENTON

Mr. SPARKMAN. Mr. President, Bill Benton had many careers, but his involvement in business was one of his most far reaching. As cofounder of Benton & Bowles, as the force behind the huge expansion of Musak, as publisher of Encyclopaedia Britannica, he showed not only a good businessman's thoroughness and foresight, but a progressive commitment to the human needs which business fulfills.

His greatest achievement in business was his part in the founding of the Committee for Economic Development. Theodore Yntema, former vice president for finance of the Ford Motor Co. has said:

Bill Benton had a crucial role in the founding of the Committee for Economic Development (CED). His vision, enterprise and enormous efforts were vital to the creation and early growth of CED. He helped bring businessmen and scholars together to work on the economic problems of the country. For this and his other remarkable achievements in education, Benton ranks as one of our Heroic Figures.

Paul Hoffman, cofounder of CED, former chairman of Studebaker, first head of the Marshall plan, president of the Fund for the Republic, and director of the U.N. Development Program and with Senator John Cabot Lodge persuaded General Eisenhower to seek the Republican Presidential nomination in 1952, said:

As was anticipated, Bill Benton's death has resulted in his receiving a large number of eulogies from many parts of the world from many different people. They have one fault in common: they give great emphasis to Senator Benton's accomplishments as an advertising man, a businessman and a politician, but none stress what to my mind was his most outstanding characteristic, namely, that he was a great human being and was always looking for a chance to help other human beings realize all their abilities. I am one of many hundreds of people Bill Benton helped in a most effective way because of human compassion. This explains the reason why he has so many devoted and intensely loyal friends throughout the world. He would do anything to help a friend to achieve a worthy objective. I hope that in some eulogy in the future this unique characteristic of Bill Benton's will be properly highlighted.

I had an unusual opportunity to know Bill Benton because I was associated with him in Encyclopaedia Britannica and also he was my partner in the organization of the Committee for Economic Development, to which he made enormous contributions.

The fact is that the CED was and is a moving, progressive force in American business and American life. With Paul Hoffman, Benton gathered such men as Thomas B. McCabe, the head of the Scott Paper Co., who would become head of the Federal Reserve Board in 1949; R. R. Deupree, the head of Procter & Gamble, and the Chairman of the Business Advisory Council to the Department of Commerce; Clarence Francis, the head of General Foods and a former advertising client of Benton; Ray Rubicam, the advertising man who had been Benton's principal competitor for General Foods; Beardsley Ruml; Paul Mazur; Marshall Field; and Henry Luce. In addition there was Ralph Flanders, a Republican, a flinty Vermont toolmaker, and a Boston banker. Flanders, in time, would become the first Chairman of the Committee for Economic Development's Research Committee, of which Benton was to be the Vice Chairman as well as the Vice Chairman under Paul Hoffman of the CED as a whole. Later, the Research Division included Chester Davis of the St. Louis Federal Reserve Bank; William L. Batt, of SKF Industries; S. Bayard Colgate, of Colgate-Palmolive-Peet, Chairman of the NAM Committee on Postwar Planning; Donald David, dean of Harvard's Graduate School of Business Administration; Max Epstein, of General American Transportation and a trustee of the University of Chicago; Harry Scherman of the Book-of-the-Month Club; Eric Johnston, the new president of the U.S. Chamber of Commerce; Charles E. Wilson, of General Electric. Hoffman and Benton were ex officio members, with the latter ex officio Vice Chairman.

Part of Bill Benton's great talent was his ability to choose men, and with this group Benton and the CED proceeded to involve the American Economic Community in education, the protection of civil rights, and in full and fair employment. Our debt to his foresight, his sense of justice, his energy and his involvement is enormous.

I am glad that I had the privilege of serving in the Senate with both Bill Benton and Ralph Flanders who were closely associated in many worthy programs. They were both my friends.

SENATOR PELL RECEIVES RECORDING INDUSTRY CULTURAL AWARD

Mr. JAVITS. Mr. President, recently one of our colleagues was honored by an industry that brings much pleasure to all Americans.

Senator CLAIBORNE PELL of Rhode Island, on March 21, received the fifth annual cultural award of the Recording Industry Association of America at a

dinner in the Shoreham Hotel. That dinner attracted many Members of the Congress as well as the leaders of the recording industry.

Since the Senator from Rhode Island and I serve together, under his chairmanship, on the Subcommittee on the Arts and Humanities, I am keenly aware of our colleague's deep dedication to the diverse cultural life of our country. He is truly worthy of the honor. I know he will cherish the glass star obelisk award as I have mine and I congratulate him.

Moreover, the recording industry is to be congratulated on its choice for the award as well as for its continuing contributions to the joy of life in America.

I ask unanimous consent for the text of the citation of Senator PELL, the remarks of Recording Industry Association of America President Stanley M. Gortikov, and our colleague's response to be printed at this point in the RECORD.

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

RIAA CULTURAL AWARD

The Fifth Annual RIAA Cultural Award is proudly presented by The Recording Industry Association of America to Senator Claiborne Pell of Rhode Island in recognition and deep appreciation for his devotion and dedication to America's cultural heritage and its ongoing artistic efforts. Since coming to the Senate 12 years ago, he has become one of the Government's principal proponents for Federal assistance to those activities which enhance the quality of life. As a member of the Senate Committee on Labor and Public Welfare, he was instrumental in the establishment of the Special Subcommittee on the Arts and Humanities and was named its first chairman. He was the author and co-sponsor of the Senate bill which established the National Foundation on the Arts and Humanities and has repeatedly sponsored legislation calling for increased funds for cultural purposes. As chairman of the Subcommittee on the Smithsonian Institution, he introduced legislation which increased the scope and funding authority for the National Museum Act. His efforts led to the recognition of museums as educational institutions under Federal law, a designation which made museums eligible for participation in Federal educational programs. He has authored the bills which led to markedly increased funds being apportioned for elementary and secondary education and was responsible for the Library Services and Construction Amendments of 1970, which granted greater flexibility to the states in assigning Federal funds for library programs. For his total involvement and active interest in fostering and encouraging the cultural and educational climate in our country, the Recording Industry Association of America is proud and delighted to present him with its Fifth Annual Cultural Award.

REMARKS BY STANLEY M. GORTIKOV

Good Evening Ladies and Gentlemen. I am Stanley Gortikov, President of The Recording Industry Association of America, which comprises our country's principal record and tape manufacturing companies. We are genuinely pleased to welcome you to our Fifth Cultural Award Banquet tonight.

Our companies make round black discs with holes in the middle—450,000,000 of them every year. We also produce and market 100,000,000 tape cartridges and cassettes. But our key commodity, our special pride, is what we deliver within those discs and cartridges. I speak of the entertainment . . . the joy . . . the fun . . . the education . . . and the enrichment that all come from music.

We channel culture and art to America, too, as we carry serious music, great musicianship, and outstanding artistry to many millions far beyond those reached in our concert halls. To foster arts and culture originally impelled our creation of this banquet and our Annual Cultural Award.

Our striving to deliver those recordings to the consumers of America is being seriously challenged and undermined these days. We are now under constant attack by an expanding army of unauthorized duplicators who literally steal the creativity, the efforts, and the money of our record companies, our artists, our musicians, our music publishers, and our composers. These pirates are siphoning more than $200 million a year out of legitimate sales channels, as they drain our life blood. They hit us where it hurts most, because the pirates of America copy only our more successful product, our hits.

Yes, we have a relatively new Federal copyright law which has granted presumed protection on new product. But infractions of this law are only misdemeanors, and it is difficult these days, despite the noble intentions of law enforcers, to gain priority alongside more overt criminal acts. So we have an industry which suffers; we have artists who cry out for protection now theroetically granted them by law; we have union musicians whose income is being grabbed away by ruthless, gypsy-like parasites, many of whom have links to organized crime.

The very goal we symbolize in this event tonight—the growth of culture and music and art in America—is partially threatened by the erosion of our economic base. How strange it is that our culture can produce such musical greats as a Leonard Bernstein, a Sammy Davis, a Neil Diamond, a Burt Bacharach, and a Barbra Streisand. Yet our same culture can also produce thieves who literally poach upon their unique artistry

This seamy underworld is masked from us here tonight as we assemble, as we genuinely welcome you, and as we approach you musically and gastronomically. And we are here for another purpose, too. Once again tonight, for the fifth consecutive year, we honor one of Washington's own contributors to art and culture, the winner of RIAA's Fifth Cultural Award. This award is designed to recognize and encourage those in the Federal Government who have made notable contributions to our culture and who have helped make people more appreciative of the diverse art forms that are a part of our society.

The criteria for our award match precisely with the profile of the man we honor as our winner tonight, Senator Claiborne Pell of Rhode Island. He is a legislative pioneer in the arts, humanities, and education, and truly is a "modern Renaissance man." His peers hold him in high esteem for his innovation and vision in legislative affairs. His understanding of and devotion to the values that produce enlightened government and citizenship are widely known in Washington. He has helped foster a Renaissance spirit in the United States, creating a climate for the encouragement and development of our cultural progress.

Senator Pell's family background is rich in public service and cultural affairs. His father was a member of Congress and the foreign service. Four other ancestors served in Congress. One of them, Pennsylvania Senator George Dallas, became Vice President of the United States in the administration of James Polk. He is an honor graduate of Princeton University and has a master's degree from Columbia. He served seven years as a member of the foreign service. All that . . . and a lovely wife and four children too.

Senator Pell's contributions to the arts and culture are best described in the award "Citation," which acknowledges his role as one of the government's principal proponents for federal assistance to those activities which enhance the quality of life.

He is a member of the Senate Committee on Labor and Public Welfare, was instrumental in establishing the special subcommittee on the arts and humanities, and was named its first chairman. He was the author and co-sponsor of the Senate bill which established the National Foundation on the Arts and Humanities, and has repeatedly sponsored legislation calling for increased funds for cultural opportunities.

As chairman of the subcommittee on the Smithsonian Institution, he introduced legislation which increased the scope and funding authority for the National Museum Act. He has authored bills which led to markedly increased funds for elementary and secondary education, and was responsible for amendments which created greater flexibility to the states in assigning federal funds for library programs.

For his total involvement and active interest in fostering and encouraging the cultural and educational climate in our country, the Recording Industry Association is proud to present him with its Fifth Annual Cultural Award.

SPEECH BY SENATOR CLAIBORNE PELL

Ladies and Gentlemen: I am deeply honored to be with you this evening at this Fifth Annual Cultural Award Dinner of the Recording Industry Association of America. And I am particularly honored and delighted to be the recipient of this year's award.

I immensely appreciate this citation and its generous reference to my efforts in behalf of cultural programs, in the arts and humanities, in education, in the library and museum fields. These areas have been of deep concern to me since my first years in the Senate.

Often we who have toiled in these cultural vineyards have worked without much political recognition—in a sense sometimes the grapes we have sought to harvest have been treated—if not like the "grapes of wrath"—like the grapes of criticism or scepticism. So it is especially pleasing when we are given recognition, and even more meaningful when the recognition comes from your organization which I hold in highest esteem. I am indeed very grateful to you. This award refers to my past efforts, but it gives me great encouragement to continue to pursue, in these cultural areas, my own personal convictions and beliefs.

A civilized society is judged by the values it places on cultural advancement. How will history eventually judge us as a nation in these terms? Will some group of historians in the future say that somehow the United States faltered—that it became paramount in industry, preeminent in science, expert in the design of weaponry, a genius in mass communication—but that it neglected, or paid too little attention to, the diverse art forms which signal like beacons the imperishable achievements of the human mind and spirit? Together with you I believe we here know how to respond, but our quest needs a constant renewal and vigilance.

In recent joint Congressional hearings on the reauthorization of the arts and humanities program, we asked for justification from the leaders of this growing agency for proposed increases in Federal funding. We received several answers. We heard that progress had been achieved, as indeed it has, and that it should be allowed to continue to broadened accomplishment. We heard that the Bicentennial was involved, and that it was necessary to put our best foot forward for proper celebration of our 200th anniversary. But there is another answer—which is that our cultural advancement relates not just to a moment of time, not to one celebration no matter how significant, not even to our span of life, but to a future time and future horizons toward which we can now only aim.

The target is distant, but unless we direct

our thoughts and minds, our sights and efforts toward it, it can disappear.

When I discuss the arts, let me say—in particular—how much I believe the art form represented by the Recording Industry of America means to all of us. Although this art form is specifically designated in the arts and humanities legislation, it had long before made its mark on our cultural scene. We hear, for instance, an old record of Enrico Caruso, and though the quality of sound has been vastly improved since his day, listening to that voice we are suddenly transported into another era and yet aware of the perennial striving for perfection. That striving applies to the world around us, and we think of recordings which not only sharpen our appreciation today, but become the preservers for enjoyment in future tomorrows.

I have noted with great interest that the National Endowment for the Arts, whose creation I sponsored in the Senate, is assisting this year, with more than $5 million, ninety-six orchestras. The Endowment is assisting opera in the United States with almost $4 million. It has initiated a new program for jazz, folk music and ethnic music. This program relates especially to our heritage in Black, Indian and Chicano cultures, as well as to the old songs of former frontiers and the old cowboy songs and the music of our Western plains.

And as these grants are made and as they hopefully increase in scope, we can think of both performers and composers who will benefit, and we can think of both traditional and new sounds and harmonies—in a broad musical range—emerging to be captured in recordings. It is through this means that the widest possible audience is reached.

The whole concept of the arts and humanities program is to encourage increasing quality in these cultural areas and to make this available to all our people; and this is where the recording industry plays such a vital role.

In the past the arts were best appreciated by limited numbers of our citizens. That situation is ever improving. The arts are becoming a common denominator for enjoyment, for entertainment, for education. Our greatest performers are able to reach out to a growing audience—and like the precious manuscripts of Medieval times and the books we treasure, recordings make permanent the achievements of the moment which otherwise would be lost.

So this evening I would like to turn toward you this tribute you have given me by saying that you are immeasurably helping all of us to reach that distant target I have mentioned, and that goal beyond our present horizons.

THE ELOQUENCE AND ERUDITION OF SENATOR ERVIN

Mr. MATHIAS. Mr. President, as we all know, our colleague, the senior Senator from North Carolina, has been putting in long hours recently. In spite of the added pressure he retains a sense of style and a flair for the recondite mot juste, showing us all once again how far we have to go. A typical note from his lyre has been heard by the editors of the Baltimore Sun, and I ask unanimous consent that their reaction be printed in the RECORD.

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

NICODEMUS?

Eloquence and erudition are qualities lamentably short in today's public life, but Senator Sam Ervin of North Carolina possesses something of both, as he has demonstrated anew in his effort to force the White House to come through with what it knows of the Watergate case. Senator Ervin, chairman of a select committee to investigate the conspiracy, declares on the subject of executive reluctance that members of the White House staff are not "nobility and royalty" with an inherent right to remain aloof—which may be news to some of them. As to the White House proposal that something might be forthcoming but not formally under oath, the Senator said: "I'm not going to let anybody come down at night like Nicodemus and whisper something in my ear." (Nicodemus, a "ruler of the Jews," was said to have visited Jesus in secret, in order not to be openly identified with him.) So now Ron Ziegler, the White House press explainer, will have to add to his constant labors a study of the Gospels, if he is to stay in the argument.

CURRENT PROGRESS TOWARD AN ALL-VOLUNTEER FORCE

Mr. CRANSTON. Mr. President, I want to bring the attention of the Senate to a news briefing held by Roger T. Kelley, Assistant Secretary of Defense for Manpower and Reserve Affairs. The subject of his briefing was current progress toward an all-volunteer force.

As you know, Secretary Richardson stated on March 21 that the administration will not ask for an extension of induction authority which is due to expire on June 30. I applaud this announcement and welcome this opportunity to share more details of the transition to an all-volunteer force with my colleagues. I think the transcript of this briefing lays to rest certain apprehensions connected with ending the draft.

Assistant Secretary Kelley makes it clear that recruitment for all the services is doing well. This year, for example, Navy recruitment will exceed by 5,000 the total of its requirements for next year. The Army, the Marine Corps, and especially the Air Force are also doing well in this area.

Discussing the mental ability of new volunteers, Mr. Kelley reports:

By the best measurements available to us, we think we have a better mix of quality by mental categories today than we had four years ago.

Progress is equally encouraging in the recruitment of women. In the past year the services have opened up virtually every noncombat assignment to women. According to Mr. Kelley, numbers of women will approximately double—from 40,000 to 80,000—by 1977, thus reducing the requirement for a corresponding number of men.

Finally, Mr. Kelley discusses special pay legislation, including special and variable incentive pay for medical officers. In his opinion, the Armed Forces will not be able to maintain strength requirements in the medical area without incentives. It is precisely to meet that need that I have joined with Senators STAFFORD, SCHWEIKER, TOWER, and BENTSEN to introduce special pay legislation, the Uniformed Services Special Pay Act of 1973.

Mr. President, I am pleased to present Mr. Kelley's briefing and ask unanimous consent that it be printed in the RECORD.

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

NEWS BRIEFING WITH ASSISTANT SECRETARY OF DEFENSE ROGER T. KELLEY

I think you know that two days ago Secretary Richardson stated from Colorado Springs, on behalf of the Administration, that we have no intention of asking for an extension of the induction authority which, as you know, expires the end of this fiscal year. I'd like to brief you this morning on the status of the end of the draft and the all-volunteer force including some of our many problems. I believe you have handouts which, in part, duplicate the charts that you will be seeing and which I will explain to you.

First, with our active force strength, our ability to wind down reliance on the draft to zero and accomplish the all-volunteer force was eased by the reduction in force strength from a peak 3½ million in fiscal year 1968 to our present baseline strength which is just over 2.3 as indicated. This is about the level that we'd anticipate beyond this fiscal year.

Picture on draft calls, the last calendar year preceding the Nixon Administration draft calls were virtually 300,000. There was no particular drop the following year. That being the year the Gates Commission was at work analyzing the problem and the attainability of the all-volunteer force objective, we were cranking up our capability. It was not until 1970 that the effect of our various actions was felt: 163,000 draft calls then was the lowest level since before the Vietnam buildup. Successfully, we've reduced draft calls to below 100,000 in '71, down to 50,000 and, of course, no draft calls in 1973.

It was all along our plan to stop using the draft months before the induction authority expired. We did not want to be using the draft right up to the final month. We intended instead to demonstrate the capability to operate without the draft with correspondingly low draft pressure for a number of months before the induction authority expired.

The next five charts, starting with this on all-Services, will show you what the trend is on overall enlistments of men. The green shaded portion representing true volunteers; the brown representing those who are draft induced or draft motivated. It's been fairly easy with the random sequence number system to identify those who are true volunteers as distinguished from those who are draft motivated. In addition to what the lowness or the highness of the numbers suggest, we have regularly surveyed new entries during or following basic training to find out why they came in, to find out their attitudes towards various services, what turned them on and what turned them off in the course of their initial military experience. Through those means we have established accurately what proportion of true volunteers are entering the Services.

As you see, the total of true volunteers which will be obtained through this fiscal year is virtually the same total as the total requirements for fiscal 1974.

Now by each Service. The Army numerically has had the biggest job to do. If you follow this trend line on true volunteers as a proportion of total enlistments, it augers well for the Army's ability to meet its requirements relatively easily in Fiscal '74. In actual numbers, the Army will need 11,000 more next year total, male enlistments, than the total of true volunteers this year.

Fiscal '73 has been the biggest test for the Navy by the statistical accident of having had high turnover four years previously—Fiscal Year 1969—and thus a number of people coming in and then in going out this year. The Navy floundered for a while being the slowest of the four Services to respond to the recruiting requirements of the all-volunteer environment. By now the Navy has cranked up its recruiting capability, is doing well, and is making up for some quality

deficiencies that developed during the early months of this fiscal year and before.

As shown, the total of true volunteers to be obtained by the Navy this year will exceed by 5,000 the total of its requirements for next year.

The Air Force has consistently done best of the four Services in terms of recruiting. The Air Force started with a high quality recruiting organization and has maintained its quality through the years. The Air Force has the advantage of a high percentage of its total occupations or jobs, representing skills that are transferable to civilian jobs and this has enhanced the attractiveness of Air Force enlistments and careers. The Air Force total true volunteers this year exceeds by 11,000 the total of its requirements for next year.

The Marine Corps, as the old saying goes, needs a few good men and gets them. The Marine Corps has not varied its standards much over the years of transition to an all-volunteer force. It is doing well. There is no question at all of its ability to meet the requirement of 52,000 new Marines in Fiscal '74. You'll note that the number of new entries required in the Marine Corps in relationship to its total size, is high as compared with some of the other Services—like the Air Force. The Marine Corps is a younger man's occupation than the Air Force for example. There is a requirement to retain a much lower percent of those who are infantry Marines and rifle companies, than it's typically the case in the other Services. So the desired retention of the first term Marines is lower than the desired retention of first termers in the other Services.

This is uniquely an Army story but it's a story worth telling because it demonstrated why the Army among other Services has been able to meet the test of being a totally volunteer organization. Back in '69 and 1970 when the big debate was on about whether or not we can have an all-volunteer force, the institution of the Army was saying to us there's no way we could make it because the cutting edge of the Army—infantry, armour, artillery—has a requirement for more than 5,000 new entries each month; against that monthly requirement we are getting only about 200 enlistees in the infantry, armor, artillery. Statistically that was correct, but in looking at the recruiting habits of the Army, one would have found then that the Army was relying wholly upon the draft to produce the people needed to meet its infantry, armor, artillery, requirements.

You will recall back in 1970, '71, the statistics which showed that the draftee was carrying the heavy brunt of combat burden in Vietnam and this is part of the same story. Because the Army wasn't trying to get combat arms enlistees through the recruiting program, we said to the Army in this period, try to get recruits for infantry, armor, artillery and so they did. It was during this same period of time that the Army was beefing-up its recruiting capability, replacing some poor quality recruiters with better quality recruiters. This blip from the level of 200 to almost 1400 in the first half of 1971, is the function of the Army trying to get enlistees in the combat arms.

During that period of time, the Army was developing what proved to be some very successful unit of choice and theatre of choice options for enlistees. By enlisting in the combat arms, for example, one could be assured of membership in prestigious Army units like the 82nd Airborne, the Big Red One, 101st Airborne and others. This proved to be a very strong attraction to combat arms. By signing up in the combat arms, one could be assured of theatre of choice assignments: Europe, Korea; even in some cases Vietnam.

The combination of better recruiting and the attractiveness of these units of choice and theatre of choice caused enlistments to rise in the combat arms to the level of 3,000. It was during this period, November of '71, you will recall, that the Military Pay Act took effect and with that the authority to pay an enlistment bonus of up to $3,000 for at least a three-year enlistment in the combat elements. With that authority, the Army requested its immediate use and we said no, let's test your capability without the bonus for an additional period of time.

So for the next five months, the Army proved its ability to at least maintain its level of 3,000 without using the bonus and starting in June of last year we began the initial test of the combat arms bonus. Instead of going from $3,000 that was authorized, and the three-year enlistment period, we reasoned that the enlistment period requirements should be longer because we were already getting 3,000 people without the bonus. Instead of $3,000, we opted for $1500. The result was that in the last half of calendar '72, the Army obtained a total of more than 3800 per month in the combat arms, roughly two-thirds of those coming in with the bonus the other third opting to sign up for three years without the bonus. You can see from the broken line that this enlistment experience, 3835 monthly average, compares with a monthly requirement in Fiscal '74 and the out-years of 3500.

The Army has by now demonstrated beyond any reasonable question, we think, the ability to meet its combat arms requirements during a period in which there is no draft pressure because there is no induction authority.

A word about the bonus. The best way to use the bonus—the ideal way to use the bonus is not at all. The justification for the bonus, in our mind, is, that being in the national security business, we cannot be placed in a position where when all else fails the bonus isn't available as a means of bringing people into the Services in critically short skills. Critically short skills in post Vietnam are not necessarily limited to combat arms. They could as well be in the nuclear field; they could as well be in the avionics field or in the engineering skills. Wherever they are, we intend to use the bonus only if all the other actions, initiatives, that good managers ought to take have been tried and fall short of meeting requirements.

So far we've been talking numbers and this might suggest that we're really playing a numbers game and not concerned enough about the quality of the people brought into the force. Not so. Our continuing concern has been quality as well as quantity, and I'd like to show you in the next two charts two of the measures used to follow the quality signs.

The mental ability of new entries, classification in the mental categories, is something which derives from Armed Forces qualification test and this as you know goes back to World War II days. Those who are in mental Categories I and II equate roughly with good to excellent college material. These are bright young people who are capable of carrying college work. Category IV is the lowest category of people admitted into military service. Those in lower mental categories would account for between 10 and 15 percent of the national youth population. Category III is, as indicated, the average between these two.

As you see, from '69 through the first half of '73, there has been a modest but not startling decline in the proportion of Categories I and II among the total enlistments. There has been a decline in the proportion of Category IV enlistments; from 24 percent to down to 18, compensating for those two declines a corresponding increase in the percentage of average people.

One might think looking at this the ideal is to obtain as many people in I and II as it's possible to obtain and as few in IV as is possible. This also is not so. The objective is rather to bring into the military services a mixture of people whose learning capacities match the relative difficulty of jobs to be performed. It's been shown that quality mismatches occur when the Services are overrun with people in I and II Categories; who are unchallenged by their jobs. Similarly, a quality mismatch occurs when there is an overrun in Category IV, when they are assigned to jobs over their heads or who have to spend an inordinate period of time in learning the jobs because they're too difficult for the individuals.

By the best measurements available to us, we think we have a better mix of quality by mental categories today than we had four years ago. This is a measure that we watch closely and we will continue to watch it closely. You have perhaps heard that people in mental Category IV are bad news because they account for the highest percentage of disciplinary problems; stockade confinements, Article 15s, court martial convictions and the like. This is a myth. The fact is that those who have dropped out of high school tend to account for the highest rate of disciplinary problems and disorders and not Category IV people. As a matter of fact, the bright ones who drop out of high school have a greater potential for troublemaking than the Category IV's who drop out of high school because the bright ones are not only undisciplined but they can figure out more ways to beat the system and eventually they get themselves crosswise with the authority lines.

We've watched, therefore, the percent of high school graduates closely wishing to maintain a high proportion of high school graduates among total enlistments. You see by this that in the first half of 1973, the Army percent of high school graduates fell off some. The Army has in the early months of Calendar '73 initiated some quality controls on itself and as a result the Army has brought this 52 percent up to virtually 70 percent again.

The Navy is at the acceptable level of 68 percent—it's ranging between 68 and 70 percent. The Marine Corps has historically brought in the lowest percent of high school graduates; the Air Force, historically, the highest rate.

A word about women in the Services; to what extent will we rely on them. As you can see in this Fiscal Year, the end strength for women will be just under 41,000 and by 1977 it will be double that. Why this substantial increase? During the past year, at direction, the Services reexamined all of the occupations eligible to women. Before that examination, they were approximately one-third of the total MOS's or skill occupations available across the four Services. As a result of that examination, virtually every military occupation has been made available to women with the exception of those that are directly combat-related. The plan for 80,000 by 1977 is a modest plan and if the opening up of employment opportunities is a trend, we would forecast that 80,000 will be rather substantially exceeded by 1977, even though this is the present goal. Of course, to the extent we do even this, increase from 40 to 80 the number of women, we reduce by 40,000 the requirement for new entries of men.

Let me talk for a moment about the Guard and Reserve picture. You will recall that prior to mid-year 1971 there were no number shortages in the Guard and Reserve because the draft was taking care of it. Those who wanted to avoid being drafted; those who wanted to avoid Vietnam, lined up in the Guard and Reserve Armories and they didn't lack for numbers even though they lacked substantially for motivation and for people joining the Guard and Reserve for the right reasons.

In June of 1971, or as the fiscal year ended, Congress was still debating whether or not to extend the induction authority which ex-

pired then. There was a hiatus of several months in the last half of Calendar '71 during which we did not have induction authority and after Congress reinstated the induction authority, there were additional months in which draft calls were low. The confluence of those two factors caused the draft pressure to, if not disappear, at least substantially decline, with the result that instead of waiting lines there developed in the last half of '71 a shortage.

Up to that point it's worth noting that there was essentially no recruiting capability in the Reserve components except for the draft. There was a buddy system of recruiting, more or less, in the Guard components and to some limited degree in the Reserves, but no recruiting organization as such. As this phenomenon occurred it was necessary for the Guard and the Reserve, particularly the Reserve, to crank-up its recruiting capability in a hurry. It is still cranking and it still has a ways to go; particularly this is true of the Reserves.

Today, we have shortages below the Congressionally mandated strengths of about 50,000. The overall picture is misleading because most of this shortage belongs to the Army Reserve. The Army Reserve is about 9 percent below its authorized strengths. The Army Guard is about 3 percent below its authorized strength. The Air Guard and the Air Reserve are in good shape, up to authorizations. The Navy Reserve and the Marine Reserve are below authorized strengths but not very much. So the biggest piece of the problem belongs to the Army Reserve. The second biggest piece of the problem belongs to the Army Guard.

Are we getting enough officers? The answer is yes, overall. We do anticipate some problems in the medical community. I'll have more to say about that in a minute. We anticipate some problems in the nuclear and the avionics field. As noted in reference to enlisted women, the supply there is plentiful and the quality very good. The same is true in the case of women officers. Women incidentally are competing most effectively with men in the training stages.

Let's talk about Doctors for a moment. First line requirements, from the end of this fiscal year with requirements of 13,500 we will go down to a lower requirement of 11,300, with the ability to use Berry Plan doctors; Berry Plan being the system of deferral of service for Doctors. With the availability of the Berry Plan, we do not anticipate there will be a shortage of Doctors in the next fiscal year but that absent the special pay, scholarships, and incentives, that we've asked for, we will develop shortages in Fiscal '75, and '76. This bottom line is essentially nonapplicable because General Counsel has established that we do have the authority to use Berry Plan Doctors.

The requirement for bringing male enlistees into the Services is not only reduced by the use of women, it's further reduced by the civilianization of certain jobs now held by military. Civilianization has been sort of a dirty word around this building because in some times past civilianization was a method used to sort of double dip the military services; first, reduce the size of the military force, than convert military jobs to civilian and then subsequently reduce the size of the civilian force. In any future civilianization, conversion of military to civilian jobs, we will be credited for the number of jobs so converted. If there was requirement to reduce our civilian force in DoD by 50,000 by the end of Fiscal '74 and we have by that time accomplished this conversion of 31,000 jobs, the remaining requirement for reduction would be 19,000 or the difference between 50 and 31. These two are modest goals. They were goals arrived at by analysis within the Services in collaboration with my office.

Let me talk a moment about the Special Pay Act which Secretary Richardson alluded to in his statement of two days ago. You are familiar with the fact that an almost identical bill was submitted to the 92nd Congress. It passed the House; it failed of action in the Senate. The principal provisions of that bill are five: first, to expand the authority of the enlistment bonus in the active forces, to apply to any shortage skill. When we went to Congress in 1971 on the Military Pay Act, we asked for this authority and said that our first use of the authority, if granted would be in the combat elements. Congress rejoined that * * * we will give you the authority in the combat elements only, and see how you do with it. We predicted then, as we point out now, that while the combat elements represented the tough problem in the Vietnam years, in the post Vietnam years, we can anticipate other kinds of problems than just combat arms. This would give us the authority to use that selectively.

The Selective Reenlistment Bonus is not only a no-cost item, it's over the years a cost-saving item. Every four years we're required to review the effectiveness of our pay system and the last review was concentrated in the areas of special pays which account for well over a billion dollars of DoD expenditures a year. One of the special pays that is not effective is the reenlistment bonus because the reenlistment bonus is given to those who enlist after their first terms whether their occupations are in short supply or not. This costs the taxpayer $60 million a year and two-thirds of it occurs within occupations that are not short in supply. Our scheme therefore is to get out of that business of paying a reenlistment bonus to everyone and pay a selective bonus depending on whether there is a shortage at all and depending on the criticality of the shortage.

The third item, the variable incentive pay for officers; this would authorize payments of up to $4,000 for critical skill areas during the also critical 2 to 11 year period. This would enable us to address such problems as retention of experienced lawyers. We don't anticipate serious problems in attracting the junior lawyers, but we do anticipate a problem and have a problem today in retaining a sufficient number of experienced lawyers.

Enlistment and reenlistment bonuses for Reservists; we are asking for and need the same kind of bonus authority in the Reserve community as we have in the active force community. We will not recommend that that bonus authority be used at the enlistment point until we have come closer to exploiting the capability of our recruiting organization in the Guard and Reserve than we have today. Our first intended use of the bonus authority in the Reserve community would be at the reenlistment point not at the enlistment point.

Finally, medical officers, special and variable incentive pay. Two factors; first, increasing from $150 to $350 a month the special pay received by doctors and then providing the authority to pay to $15,000 a year for doctor critical specialties but the planned average being substantially less than $15,000. This, as I believe you know, is intended to close the gap between the military doctors pay and the civilian doctor pay in the junior years of service. The young doctor who is two or three years out of his medical residency can expect to have built up a full range of practice and whereas the compensation curve of most adults runs something like this, when he's two or three years out of his residency his compensation curve takes a steep jump and there's a sharp disparity between what he receives as a civilian doctor and what the military doctor receives and this is causing mass exodus of doctors from military service.

Costs associated with the all-volunteer force—the 1971 and subsequent pay increases would account for almost $2.4 billion in fiscal 1974 and the remainder as indicated, adding to a total of 2.7. In fiscal 1974, the figures as indicated, the Special Pay Act which I described just a moment ago would account for $225 million of the budget in fiscal 1974 if it was used starting in July and if it was used fully during the entire year. We do not anticipate its full use during the entire year, so the actual cost would be something less than $225.

Q: How does this compare with the Gates Commission recommendations? Do your figures here track with the Gates Commission figures?

A: Not exactly. We had two basic differences with the Gates Commission recommendations. One was a matter of timing. The Gates Commission believed the all-volunteer force could be implemented within a year of the time its recommendations were made. We considered this wholly unrealistic.

Second, the Gates Commission recommendations focused entirely on the matter of attracting new people and ignored or at least paid less attention to the problems of retention. The configuration of pay increase recommendations made by us was some different from the Gates Commission recommendations because of this factor.

Q: Could you very briefly summarize for us what you see is the outlook for the all-volunteer military service with the end of the draft?

A: Yes. First as to the quality of the force, I think the outlook is bright. We are seeing evidence that people who are joining the military services because they want to and not because they are forced to, make better soldiers, marines, airmen, sailors than others do. The forecast as to the size of the force and our ability to attract a sufficient number of volunteers is also a bright forecast and this relates to earlier charts. We do have special supply problems such as in the medical community and in the reserve community. We believe these are solvable problems and that we can safely discontinue the induction authority.

Q: You've heard the criticism that an all-volunteer force will have a poor man's force; the lower classes will be attracted because they will be the only ones that will be tempted by pay increases, pay bonuses, etc. How do you answer that?

A: The right answer to it, I believe, is that people should be eligible for military service if they meet the mental, moral and physical entry standards. They shouldn't have to produce a net worth statement to get in. To the extent that the military forces and an all-volunteer environment attract a number of people from lower economic classes who qualify for entries, so much the better for those individuals and so much the better for the armed forces. The companion charge has also been made that the all-volunteer force will become dominated by certain racial or ethnic strains. This is gratuitous. There is no evidence in our experience to date that would support it. The proportion of racial minority members to the total force is within one or two percent of their proportion of the total population for entry of those age groups.

Q: The Department of Defense speeches, other communications to the public and to Congress, have emphasized that manpower costs are really responsible for the size of the budget—the total DoD budget—for next year. Doesn't this have the effect of focusing attention on the possibility of Congress cutting back manpower programs, and all-volunteer force programs?

A: I think it focuses upon that possibility but to put that subject into perspective, a number of the costs associated with pay increases were costs that should have been incurred over the years but were avoided simply because the draft was there to compensate for things that otherwise should have been done. For example, from 1952 until 1964 the military first-term members received no pay increases at all. The result was that until

the pay increase of November 1971 the total compensation of the military first-termer was less by $600 than the federal minimum wage annualized. It was less by $1300 then the Job Corps graduate's pay before he did anything productive. It was less by $2500 to $3,000 than what people get for entry jobs, blue-collar or white-collar in our society. The military person in his first term was paying a form of tax which reflected the inattention of Congress to his pay in relationship to the pay of others in our society over those years. These heavy costs are associated with the catching-up for things that should have been done but weren't and obligations that are not associated with the all-volunteer force. They're just associated with considerations of equity and decency for the individual whether we're moving in the direction of the all-volunteer force, or not.

Q: We're familiar with these arguments, aren't you in effect saying to Congress if you have to cut the budget somewhere, cut it in the personnel area and leave all of our weapons programs alone?

A: No, we're not saying that. It's my personal conviction and prediction that over the years the all-volunteer force will prove to be a more efficient and economical way to run the Armed Forces than if they were partially conscript. I've been told some of you before that this is the experience that the British had in converting from conscript to volunteer starting in 1960. The challenge which we must address, obviously, is that of improving the utilization of the human resource and thus reducing the cost of manpower, but the cost that we addressed in pay increases and in providing a decent living quarters and in the education programs, recruiting and the like, are costs that simply must be addressed if we are going to attract quality people in the armed forces.

Q: Can we go back again to this question of attracting poor people? As I understand your answer, if we do and they're qualified, fine; are you familiar with the article Joe Califano wrote the other day?

A: Yes, I am.

Q: I thought you would be. He said that this was a way of substituting your people in the Armed Forces for the more affluent. Your answer to this question didn't deal directly with that; in effect you said if that's what it does, ok.

A: What I said was if people who don't have much money in the bank are attracted to military service and meet all the qualifications for entry, then so much the better for them and for the armed forces. The Califano charge is a charge without proof. It's an interesting theory that in an all-volunteer environment military service will prove to attract people from the lower economic ranges. Whether it does or not, doesn't concern me. What concerns me is that we attract people to the armed forces who can meet the requirements of service and who will assure a quality performance.

Q: Do you anticipate any resentment in the part of non-doctors, non-specialists, who are not getting these bonuses of $15,000 a year?

A: I suppose no more so than non-doctors in civilian society resent the high earnings of doctors. There's no evidence either that the special kinds of incentives, the variable reenlistment bonus, for example, paid to some because they're in a critical short skill and not paid to others because they're not—have bred resentment within the Services.

Q: Do I understand you to say or infer that if you don't get these further pay incentives from Congress this time, you're still going to meet your manpower requirements, it's going to be tougher, it may be a lot tougher, but you're still going to do it?

A: I don't think that we're going to be able to sustain our strength requirements in the medical community without the form of incentives that we've recommended. As far as the rest of the community, the overall picture is concerned, I think your statement is correct. What we want the incentive and bonus authorities for is to assure that if the need arises in particular areas, we have these incentives and bonuses to use, in order that our strength requirements can be met. In other words, to avoid the necessity of asking for reinstatement of the reduction authority at some later time after it has expired.

Q: Do you anticipate that Congress may not agree with you on this or have you detected any substantial number of Congressmen who will want to continue with the draft and who will refuse to go along with any more manpower expenditures?

A.: My opinion is that the consensus of Congress is strongly pro all-volunteer and against any extension of induction authority and that Congress will go along with the authorities we seek because we have demonstrated already that given these authorities we will not use them to the extreme, we will rather use them judiciously and only on an as necessary basis. I am optimistic.

Q: You said the Special Bay Act proposals are slightly or almost identical to those of last year. How have they been changed?

A: The breakoff period for officer variable and incentive pay was as I recall for 12 or 13 years in the 92d Congress Bill and, reflecting a reaction of the House Armed Services Committee, reduced to eleven. The bill as it went over in the 92d Congress recommended the authority to pay up to 18,000 reflecting House Armed Services Committee reaction that is reduced to 15,000. They are not substantive differences; they are minor differences. There are one or two others; I don't recall what they are.

Q: The medical bonus was 17?

A: Medical bonus was 17 instead of 18. Right.

Q: Do you have any word, Mr. Secretary, when the Senate is going to get around to doing anything about this?

A: No precise word. Before coming here, General Montague and General Benade and I met with the staff of the Senate Armed Services Committee and I am not only hopeful but quite optimistic from their reactions that this will receive high priority and early hearing.

Q: One of the early charts was 350,000 all-service needs for manpower in FY '74; does that approximate figure continue into the out-years?

A: It's approximately the requirement for the out-years but somewhat higher.

Q: OK, that will work out at what, about one out of every six (inaudible) graduates or . . .?

A.: Well, for the active community yes, between the active and the Reserve community, one out of four.

Q.: The Seventh Army in Europe has been repealing a number of inequities that are associated with the all-volunteer army, particularly in terms of barracks conditions, living conditions, in pursuit of the anti-drug campaign, over there, do you foresee that this might cause some problems in our retention reenlistment; problems that were addressed by these reforms in the first place?

A.: I'm not as familiar with Seventh Army recommended reforms as you apparently are, so I can't really comment on them. We are concerned about the drug problem in Europe and elsewhere. Obviously, we must get this under better management and control, or it's going to have an effect on our retention rate.

Q.: In slightly another connection, the Air Force recently did a survey in which, according to the Air Force figures, only 16 percent of the airmen felt that their pay, this was after the big pay raise, was comparable to what they would earn in civilian jobs. This very low figure after the pay raise was supposed to bring them up to comparability, doesn't that indicate some trouble?

A.: It indicates, I think, just exactly what it says, that the pull which keeps them in the Air Force is not pay. The Air Force continues to enjoy a very high and satisfactory rate of first-term and career reenlistment. There is no indication that this trend is turning for the worse. I am wholly optimistic about the Air Force's ability to meet its requirements in an all-volunteer environment.

Q: Could you tell me what the situation is in regard to the draft physicians and dentists; I don't really understand that?

A.: There will be no draft of physicians and dentists after the induction authority expires unless, of courrse, Congress acts on its own to extend the induction authority. Those who have been deferred because they are in their internship or in their medical or dental graduate training, obligated themselves by the contract then signed to serve in the military as physicians, as dentists, when they complete their training. They will be held to that obligation in the same way that an ROTC graduate will be held to the obligation of officer service or that a JAG officer who is in law school will be held to the obligation of service.

FULL FUNDING OF OSHA

Mr. JAVITS. Mr. President, the Occupational Health and Safety Act, enacted in 1970, is one of the most important pieces of Federal labor legislation protecting American workers. Unfortunately, as most of us are aware, a great many problems have developed in the implementation of the new law. Criticism has come from both sides—some believe the act has been enforced too harshly, others believe that the resources committed to the OSHA program have been woefully inadequate.

Last year I sponsored an amendment to permit OSHA to provide on-site consultation services for small businessmen, to remedy one of the worst defects of the present administration of the program. Unfortunately, while the amendment was adopted by the Senate, it never became law. I still believe that OSHA ought to provide these consultation services and I hope very much that the new Secretary of Labor will review the Department's position on this question, and particularly the validity of the legal opinion upon which the Department has refused to provide such services so far.

Later this year the Committee on Labor and Public Welfare will undoubtedly be considering amendments to OSHA, as well as to our mine safety laws dealing with coal mines and other types of mines. Wholly apart from such amendments, however, Congress must act to insure an adequate budget for OSHA and the National Institute for Occupational Safety and Health, which provides all of the basic research upon which a successful OSHA in general, and NIOSH in particular, is very forcefully presented in a statement prepared by John V. Grimaldi, director of the Center for Safety of New York University. I ask unanimous consent that Dr. Grimaldi's statement be printed in the RECORD.

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

THE FISCAL 1974 FEDERAL BUDGET AND ITS IMPACT ON OCCUPATIONAL SAFETY AND HEALTH ACHIEVEMENT

In the commendable effort to reduce unwarranted federal expenses it has been de-

cided to phase out health training grants and to cut research funds for all N.I.H. institutes and divisions except those devoted to cancer and heart diseases. May I suggest, most respectfully, that it will serve the nation badly if the training and research support for occupational safety and health were to be weakened, especially at this time.

Although Congress in the past few years has enacted many laws designed to assure the minimization of harmful occurrences, none probably will impact on the achievement of hazard control as much as the Williams-Steiger Act of 1970. This law is remarkable for many reasons, but its foresighted requirement that the Secretary of Health, Education and Welfare provide an adequate supply of qualified practitioners—under the aegis of the National Institute for Occupational Safety and Health (NIOSH)—is significant indeed. One reason is that it recognizes and responds to the fact that there are few professionals in the safety-health field who have been trained specifically for their tasks. Another is that it has provided the first opportunity for developing uniformly sound safety-health training programs.

Probably the current progress in safety-health training would not have occurred if the colleges had had to continue to rely on their own resources to furnish this instruction. They simply do not have the fiscal capability for instituting specialized programs in many cases. This is analogous to the development of medical education through federal support, enabling significant advances in medicine and medical service.

An even more important product of NIOSH's grants will be the breakthrough formulation of new understandings and techniques for controlling unnecessary hazards. It will optimize the control of hazards generally. Every major area of public concern about safety including consumer products, air and water pollution and hazards in the streets will benefit when competent practitioners of a reliable hazard control discipline emerge in sufficient numbers.

The capability for preparing skilled safety-health practitioners has not been available despite 60 years of sincere effort to develop it. Many private sources have done their best to initiate and sustain such programs. The inadequacies however are many. They are reflected in the public's alarm over uncontrolled environmental hazards, including those evidenced by an intolerable number of work fatalities each year. Now, under the effective administrative of NIOSH, in the very brief time of its existence, a significant beginning has been made toward formulating, evaluating and implementing the training of specialists for this unique field. The skills they will possess will surpass in effectiveness the dependence on authoritative standards and regulations. And it will optimize their development which, under the circumstances prior to NIOSH, has had to be based largely on desk-logic and rough estimates rather than hard scientific facts.

The NIOSH budget for training and research has been insignificant compared to the substantial sums for training and research in other fields which are considered important to the public's well-being. Nevertheless, the small funds available so far are having a significant influence on the development of safety and health achievement methods at work and in other areas of public safety. In the past, safety precepts have derived mostly from crisis situations, after trouble has arisen. Under such circumstances there is little time for finding optimal solutions. And a reliable discipline for controlling safety and health hazards could not develop. It is expected that this will emerge from the NIOSH training and research programs. However, this promise is seriously threatened by contemplated budgetary cutbacks.

It is my understanding that the original proposal for the 1972–1973 Presidential Budget, concerning NIOSH, was approximately $1.2 million for training and $2.875 million for research projects. Congress in its appropriation would have provided $3.7 million for training, without increasing the amount for projects. Now we find that only $2.275 million is estimated for training and research grants of which just $600,000 is designated for training. And we learn that a total phase-out is planned for Fiscal 1976. The negative effects of this decision may burden the nation fiscally far greater than any benefit obtained from reducing this small sum in the federal budget.

Among the people of the United States, for more than half of their lives, death and disability are far more likely from accidents than from any other cause. In fact, it is not until after their 45th birthday that fearsome heart disease, cancer and stroke effects emerge as a major cause of death.

We are all aware of the humanitarian reasons for safety. There are practical considerations as well. The national loss when present and future wage earners are incapacitated is simply enormous. Many thousands are killed or disabled by preventable accidents annually. In dollar value, the tax loss from lost earnings and the expense for treatment and rehabilitation inevitably totals billions each year. Indeed data now suggest that trauma is a major, if not the greatest, health care problem today. Significantly, it has been estimated that half of our hospital beds, in such short supply, are occupied by victims of trauma.

The combined OSHA and NIOSH fiscal 1974 budgets total $95.4 million. This approximates $6,700 per worker killed last year. If the national number (which there has been no funding to determine) of workers permanently and totally disabled were added, the federal corrective investment per critically injured worker would be far less. Moreover, the fiscal outlay for training and research that is mandated by the Williams-Steiger Act averages less than $1,600 per worker killed. Looked at another way, the OSHA-NIOSH budget calls for an expenditure of about $1 per worker. And in the vital area of grants for training the average per worker is less than 8 mills.

The threat to safety and health advancement is greater than just the peril of inadequate support for the Act's objectives. The primary need in safety-health fulfillment is the development of a sound discipline for its achievement. Workers and all other Americans need desperately the benefit of a professional hazard control discipline that only the NIOSH training and research function can provide. It is the only agency that presently has this capability by virtue of the unique responsibilities given by its mandate.

Although many safety voids now are being filled in the many hazard areas recently entered by government, the outcome probably will not be good enough. The "new" correctives generally are an extension of old approaches and their product usually can be predicted. The Highway Safety Act is an example. It established a new agency (NHTSA) and each year probably will provide more money for motor vehicle safety than was spent altogether for all areas of safety development during the 60 years of the safety movement. It has not reversed yet the awesome accident experience on the nation's highways and is not likely to bring a significant improvement unless a breakthrough in hazard control philosophy and methodology occurs first.

The NIOSH funds for training grants, though very small, can provide the needed improvement in safety-health capability. Though the N.I.H. peer review procedure they have enabled the selection of the most promising safety-health faculties and training sites. In addition, at a cost to the government that is far less than what it would be if equivalent screening and advising could be done by federal scientists alone, the first steps have been taken toward establishing uniform curricula for training pre-professional and professional safety and health practitioners. This NIOSH contribution will have a concomitant effect on performance in all safety sectors. May I emphasize that until the Williams-Steiger Act and NIOSH there was no organized means for developing and coordinating safety training. The sparse programs that emerged from the earlier years of the safety movement, simply blossomed from whatever coincidences stimulated them. Their inadequacies are reflected in rising injury rates, mostly in recent years. The consequences have been dreadful, although surely they would have been worse in the absence of existing efforts.

As a result of some previous federal-level attitudes toward training, there has been a constant deterioration of support for it generally. As a consequence we find that the private sector is now showing disinterest. For example, there simply is no substantial private support of traffic safety specialist training programs. At one time it amounted to many hundreds of thousands of dollars annually. Presently some programs are barely able to keep going. It seems that private financial sources have little interest in special programs that may not be supported in Washington. The frustrating effects of such constrictive pressures clearly must restrain the immediate and long-range advancement of safety-health training and research.

Finally it is my observation that some employers are not yet committed to the Occupational Safety and Health Act's total objective. Instead they are questioning the sincerity of the federal demand for better work safety and health programming. Signs of withdrawal by Washington surely will temper the skeptical employer's sense of urgency for meeting OSHA objectives. The result may be a lethargic national posture towards work safety that will be as great as that during the era of the Walsh-Healey Act.

I trust that these observations will be helpful in judging the real significance of the nation's safety-health needs and the effort required to meet them. Any diminution in the resoluteness of our attack on the hazard problem is perilous and I plead earnestly for support in preventing it. Cannot we at least maintain NIOSH's viability as we at least maintain NIOSH's viability as we envisioned it when the Williams-Steiger bill was enacted?

WHY THE SENATE SHOULD NOT RATIFY THE GENOCIDE CONVENTION

Mr. ERVIN. Mr. President, on several occasions, I have stated my opposition to the Senate's ratification of the Convention on the Prevention and Punishment of Genocide. In my opinion, ratification of this treaty would bring about unimaginable chaos to our system of criminal justice.

I am encouraged by growing public sentiment against Senate approval of this convention. Among other newspaper and magazine articles expressing opposition to the convention is an excellent article by Edith Kermit Roosevelt, published in the Catholic News of March 29, 1973.

Mr. President, I ask unanimous consent that this 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:

AMERICAN SOLDIERS—WAR CRIMINALS?

(By Edith Kermit Roosevelt)

WASHINGTON.—Although disillusionment has set in regarding the United Nations, a sudden interest has been revived in one of its major projects, the Genocide Convention which was reported by the Senate Foreign Relations Committee on March 6.

During the 1940's, UN activists engaged in a strenuous effort to establish, by treaties, laws that would supersede the domestic laws of nations throughout the earth. The Genocide Convention was one of these efforts.

In 1950, after lengthy hearings, the Genocide Convention was turned down by a Senate Foreign Relations Subcommittee composed of eminent legislators. But now the Convention has been suddenly and mysteriously revived, perhaps because some propaganda and lobby groups believe that it would serve their interest.

For example, if the American soldiers who fought in Vietnam can be discredited as war criminals, as they apparently could under the Genocide Convention, the granting of amnesty to Vietnam draft evaders might be made more palatable to the public.

Sen. Sam J. Ervin, Jr. (D-N.C.), who heads the Constitutional Rights Subcommittee of the Senate Judiciary Committee, is among the Constitutional experts who contends that if the Convention is ratified American soldiers could be punished for serving their country in combat. In a Senate speech on March 13, Ervin declared:

"If the Senate should ratify the Genocide Convention, it would make American soldiers fighting under the flag of their country in foreign lands triable and punishable in foreign courts—even in courts of our warring enemy—for killing and seriously wounding members of the military forces of our warring enemy."

This may sound far-fetched but consider some of the vague and all-embracing language contained in the Genocide Convention. For example, Article 11 of the Convention reads:

"In the present convention, genocide means any of the following acts committed with intent to destroy, in whole or in part, a national, ethnical, racial or religious group, as such:

(a) Killing members of the group;

(b) Causing serious bodily or mental harm to members of the group;

(c) Deliberately inflicting on the group conditions of life calculated to bring about its physical destruction in whole or in part;

(d) imposing measures intended to prevent births within the group;

(e) Forcibly transferring children of the group to another group."

According to Ervin, definitions of genocide would apply to U.S. soldiers since Article 1 of the Convention says that this crime is punishable whether it is committed in time of war or time of peace and by the fact that it contains no provision exempting soldiers engaged in hostile nation, they certainly do so with the Genocide Convention."

Furthermore, when soldiers kill or seriously wound members of a detachment of the military forces of a hostile nation, they certainly do so with intent to destroy, in whole or in part, a national group as such. Hence their acts in combat fall clearly within the scope and the Convention.

In such cases, according to article VI of the Convention, soldiers are triable and punishable in the courts of the nation in whose territory their acts are committed, or in such as international penal tribune "as may have jurisdiction with respect to those contracting parties which have accepted its jurisdiction."

"These things being true," Ervin told Senators, "American soldiers who killed or seriously wounded North Vietnamese soldiers or members of the Vietcong, or South Vietnamese civilians in South Vietnam might have been triable and punishable in courts sitting in South Vietnam, and American aviators who killed North Vietnamese soldiers or civilians in bombing raids upon targets in North Vietnam, and who were taken prisoners by the North Vietnamese, might have been triable and punishable in the courts of North Vietnam. No sophistry can erase this obvious interpretation of the Geneva Convention."

Indeed, it can't. The license that the Convention would give to persecute various groups of Americans on a number of grounds explains why the American Bar Association has thus far refused to endorse its ratification by the Senate.

LABOR-MANAGEMENT CONTRACT IN THE STEEL INDUSTRY

Mr. JAVITS. Mr. President, last Thursday, labor and management in the steel industry announced one of the most significant agreements ever negotiated through collective bargaining in America. Under the agreement, the largest U.S. steel companies and the United Steelworkers have agreed to rely on voluntary arbitration, rather than strikes or lockouts, to resolve economic issues upon which the agreement can be reached through voluntary negotiations.

This kind of approach to settling labor-management disputes has been talked about for many years. It has now become a reality in the steel industry. Not only will the agreement bring much-needed stability to one of our most vital industries, but it will also serve as a precedent for serious consideration of similar approaches in other industries.

I want to pay tribute to the farsighted, responsible leadership that exists on both sides of the bargaining table in the steel industry—I. W. Abel for the United Steelworkers and R. Heath Larry for steel management for their vision and courage in negotiating this agreement. Anyone familiar with the history of collective bargaining in this country will understand how difficult it must have been for both labor and management voluntarily to relinquish their freedom of action. Both sides have clearly risked a great deal in entering into this agreement; yet, if it works, we may well have started on the road to a period of more stable and harmonious labor-management relations than this country has known for decades.

I ask unanimous consent that an article from last Friday's New York Times concerning the agreement be printed in the RECORD.

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

STEEL UNION, 10 CONCERNS BAR STRIKES FOR 4 YEARS

PITTSBURGH, March 29.—The United Steelworkers of America approved today an unprecedented agreement that virtually assures labor peace in the basic steel industry through July, 1977, and perhaps longer. The accord, worked out with 10 companies in years of talks, provides for binding arbitration of unresolved issues in 1974 negotiations and prohibits strikes by the union or lockouts by the companies to support their bargaining positions.

I. W. Abel, the union president, disclosed details of the preliminary union-management agreement, which was approved by the 600 local union presidents and officers in the Basic Steel Industry Conference.

Mr. Abel described the plan as "an unprecedented experiment that we think will prove there is a better way for labor and management to negotiate contracts."

Sitting beside the union leader was R. Heath Larry, vice chairman of the United States Steel Corporation and chairman of the negotiating committee for 10 of the nation's major steel producing companies.

IMPORTS MAY DECLINE

"This should work for the benefit of the employes, the company, its customers and the nation," Mr. Larry said.

The concerns agreeing to the pact are Allegheny Ludlum Steel Industries, Inc., Armco Steel Corporation, Bethlehem Steel Corporation, Inland Steel Company, Jones & Laughlin Steel Corporation, National Steel Corporation, Republic Steel Corporation, United States Steel Corporation, Wheeling-Pittsburgh Steel Corporation and Youngstown Sheet and Tube Company.

Both Mr. Abel and Mr. Larry said that the agreement was expected to reduce steel imports that have adversely affected the domestic industry, do away with stockpiling by the industry's customers in anticipation of strikes, and reduce layoffs and unemployment. Imports have been blamed for eliminating 150,000 steelworkers jobs, and layoffs totaled about 100,000 after the 1971 agreement was signed.

Mr. Abel and Mr. Larry said that the pact guaranteed uninterrupted production in the American steel industry for its duration and Mr. Abel voiced the hope that it could continue indefinitely.

The present three-year contract between the union and the 10 steel concerns will expire Aug. 1, 1974. Mr. Abel said the union and industry had begun discussing the new agreement in 1967 and negotiated it over the last several years at meetings in Pittsburgh, New York, Washington and Florida.

In their joint statement, Mr. Abel and Mr. Larry said that deadlocked contract negotiation in the past had resulted in economic hardship for the industry, the employes and the communities in almost every state where steel operations take place.

They said that although the industry had not had a nation-wide strike since 1959, the potential for a shutdown brought about heavy imports of foreign steel that adversely affected the United States balance of payments.

Mr. Abel said the new procedure would provide each side maximum bargaining leverage without interrupting the earnings of employes or the operations of the companies. He said that the collective bargaining relationship between union and management had not only been carefully preserved, but also extended and refined.

Mr. Abel said the 600-member Basic Steel Industry Conference which met here for two days, had the authority to approve the agreement but that the rank and file membership had been acquainted with its details through talks by Mr. Abel and the union publication, Steel Labor.

He conceded, however, that some of the conference members had expressed doubts about the agreement, particularly about binding arbitration.

The agreement, covering 350,000 employes in the basic steel industry, provides a wage increase of at least 3 per cent each on Aug. 1 in 1974, 1975 and 1976. Cost-of-living wage adjustments and incentive wages in the present contract will be continued.

Asked how the parties agreed to a minimum 3 per cent, Mr. Abel laughed and replied:

"We wanted the world and the companies didn't want to give us anything. The 3 per cent is the floor."

The agreement provides for a one-time bonus of $150 for the workers covered. It gives local unions the right to strike over local issues, but both sides said that local strikes would have minimal effect on the industry.

The parties will begin actual negotiations no later than Feb. 1, 1974. After April 15, 1974, they will submit unresolved contract issues, including wages, to an arbitration panel of five members for decision on or before July 10, 1974.

Mr. Abel said that George Meany, president of the American Federation of Labor and Congress of Industrial Organization, was aware of the agreement and that the Seafarers International Union had shown an interest in it. He also suggested that the nation's railroads and railway unions consider it.

"We have wide open negotiations coming up in 1974 with no holds barred," Mr. Abel said. "We haven't said that we have agreed to certain limits. I hope that with this agreement the industry will modernize and provide more jobs."

Mr. Larry said, "We are providing stability of operations but we are not displacing collective bargaining. We will seek to make the agreement work without arbitration. Any agreement providing for continued operations is a major step forward in reducing steel imports. We think this agreement should help us recapture part of the market we have lost."

MISSOURI HIGHWAY IMPOUNDMENTS ILLEGAL

Mr. SYMINGTON. Mr. President, contrary to the position claimed by the executive branch, and in accordance with the recently issued opinion of the U.S. Court of Appeals for the Eighth Circuit, impoundment of Federal highway funds apportioned to the State of Missouri is contrary to law. The decision, issued on Monday, April 2, affirms the judgment of Chief U.S. District Judge William Becker of the Western District of Missouri in the grant of declaratory relief to the State Highway Commission of Missouri.

The Secretary of Transportation and the Director of the Office of Management and Budget are thereby enjoined from continuing present impoundments or imposing future impoundments for alleged inflationary and economic reasons.

This decision should be of great interest to all Americans. Incidentally, when the appeal was taken, I joined with 19 Members of the Senate and 5 Members of the House in submitting an amicus brief on behalf of the State Highway Commission of Missouri.

The court's decision rests on the construction of the statute in question, the Federal-Aid Highway Act. In the majority opinion, written by Circuit Judge Donald P. Lay, joined by Judge Gerald W. Heaney, the court concluded in part:

We turn then to an analysis of the statute. At the outset we note that in legislating the Federal-Aid Highway Act, Congress was acting under Article I, § 8 wherein it is given its express constitutional authority to establish "post Roads." After granting several additional powers to Congress, Article I, § 8 concludes by setting forth that Congress may "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof." It seems reasonable to say that until and unless Congress acted under Article I, neither the Secretary nor anyone else within the Executive branch of the government could build a federally aided highway system. The only branch of government which has the constitutional power to build roads is the only one which has the authority to dictate the terms under which the construction can be carried out. It should require no citation of authority to reaffirm the proposition that the Secretary's authority is limited to carrying out the law according to its terms.

As has cogently been observed, "[w]here Congress has consistently made express its delegation of a particular power, its silence is strong evidence that it did not intend to grant the power." To reason that there is implicit authority within the Act to defer approval for reasons totally collateral and remote to the Act itself requires a strained construction which we refuse to make. It is impossible to find from these specific grants of authority discretion in the Secretary to withhold approval on projects Congress has specifically directed because of a system of priorities the Executive chooses to impose on all expenditures. The Congressional intent is that the Secretary may exercise his discretion to insure that the roads are well constructed and safety built at the lowest possible cost, all in furtherance of the Act, but when the impoundment of funds impedes the orderly progress of the federal highway program, this hardly can be said to be favorable to such a program. In fact, it is in derogation of it. It is difficult to perceive that Congress intended such a result.

Other aspects of special interest are questions of the court's authority to decide this question as presented. The Federal Government, appellant in the case, stated that the power of the executive branch to control the rate of expenditure of funds was the real question involved; also that the matter was a political question and not subject to determination by the judicial branch. The eighth circuit disagreed:

The Secretary asserts the lack of justiciability on the ground that the case presents political questions not appropriate for judicial resolution. Counsel suggests that what is involved is the "[e]xecutive's power to control the rate of expenditure of funds" and that this is a political question. We disagree. The only issue before the district court and this court is the question of statutory construction, i.e., whether the Secretary of Transportation, pursuant to his delegated duties under the Federal-Aid Highway Act, can withhold from the State of Missouri, for the reasons he stated, the authority to obligate funds duly apportioned to the state under the Act. Surely such a determination is within the competence of the courts.

As was recently observed, "[i]n our overall pattern of government the judicial branch has the function of requiring the executive (or administrative) branch to stay within the limits prescribed by the legislative branch."

In this connection, let me draw attention to the observations made in the eighth circuit court view of the Antideficiency Act, a statute on which this administration has so often relied as authority for many impoundment actions:

Although the applicability of the Antideficiency Act, 34 Stat. 49, as amended, 64 Stat. 765, 31 U.S.C. § 665(c), was not argued on this appeal, the conclusion we reach is not at variance with the provisions of that Act. Section 665(c)(2) allows the Bureau of the Budget (now OMB), when apportioning appropriation funds, to set up reserves (i.e., withhold the funds) in order "to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available." However, the Act goes on to point out that the reserves may only be established when the funds *"will not be required to carry out the purposes of the appropriation concerned. . . ."* (Emphasis ours.) The legislative history is emphatic in noting that this power to withhold funds cannot be used if it would jeopardize the policy of the statute.

"It is perfectly justifiable and proper for all possible economies to be effected and savings to be made, *but there is no warrant or justification for the thwarting of a major policy of Congress by the impounding of funds.* If this principle of thwarting the will of Congress by the impounding of funds should be accepted as correct, then Congress would be totally incapable of carrying out its constitutional mandate of providing for the defense of the Nation." (Emphasis ours.) H.R. Rep. No. 1797, 81st Cong., 2d Sess. 311 (1950).

It is thus apparent that any withholding in order to "effect savings" or due to "subsequent events," etc., must be considered in context of not violating the purposes and objectives of the particular appropriation statute. Such purposes and objectives are necessarily violated when one charged with implementing the statute acts beyond his delegated authority.

The thrust of this comment is that the Antideficiency Act provides no authority for impoundment actions which have the effect of destroying the purpose and the policy of the Congress underlying the appropriation made.

This decision is of such current interest that the majority opinion as well as the dissenting view, should be readily available. I, therefore, ask unanimous consent that the decision be printed at this point in the RECORD.

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

[U.S. Court of Appeals for the Eighth Circuit]

APPEAL FROM THE U.S. DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI—No. 72-1512

The State Highway Commission of Missouri,[1] Appellee, v. John A. Volpe, Secretary of Transportation of the United States, and Casper W. Weinberger, Director of the Office of Management and Budget of the United States, Appellants.

Submitted: January 10, 1973.

Filed: April 2, 1973.

Before Lay, Heaney, and Stephenson, Circuit Judges.

Lay, Circuit Judge:

The legal issue before us is whether the Secretary of Transportation may defer authority to obligate highway funds previously apportioned to the State of Missouri under the Federal-Aid Highway Act of 1956[2] when the reasons given for the deferment by the Secretary and the Director of the Budget are the status of the economy and the need to control inflationary pressures. It is conceded that the balance of more than five billion dollars in the highway trust fund is adequate to meet all current requirements and that Missouri is qualified in every respect for its apportionment.[3]

On June 30, 1971, the State of Missouri filed an amended complaint against the Secretary and the Director of the Office of Management

Footnotes at end of article.

and Budget. The complaint alleged that the Secretary had apportioned 115.7 million dollars in highway funds to Missouri in fiscal 1972, but that he imposed contract controls on (impounded) 21.9 million dollars of that sum. Missouri also complained that funds had been impounded in fiscal 1971 for the same reasons.[4]

The district court held that the contract controls were beyond the authority conferred on the Secretary by the Federal-Aid Highway Act. It enjoined further withholdings for Missouri for fiscal year 1973; issued a writ of mandamus ordering that the Secretary revoke any contract controls prohibiting Missouri from obligating its full apportionment for fiscal 1973; and entered a judgment declaring that it was not within the discretion of the Secretary to withhold or to defer obligation of highway funds previously apportioned to the State of Missouri for the reasons advanced by the Secretary.

We hold that the action for mandamus was mooted by the Secretary's removal of the contract controls during the pendency of the action[5] but that the court properly granted plaintiff's declaratory judgment.

On appeal, the Secretary argues: (1) that there is no subject matter jurisdiction, (2) that there is no justiciable issue since the case involves only a political question, and (3) that the Secretary possesses discretion under the statute to withhold funds for the stated reasons.

JURISDICTION

Missouri alleged and the district court so held that it had jurisdiction by virtue of the mandamus statute, 28 U.S.C. § 1361, and by Section 10 of the Administrative Procedure Act, 5 U.S.C. § 701 *et seq.*

The Secretary urges that mandamus is not a proper basis for jurisdiction since the Highway Act is non-mandatory in nature and that mandamus is only applicable where the duty owed is specific, unequivocal and plainly prescribed.[6] The Secretary further contends that the Administrative Procedure Act is not an independent source of jurisdiction[7] but is only applicable when other grounds of statutory jurisdiction exist. Regardless of these contentions we find an ample jurisdictional basis for adjudication under 28 U.S.C. § 1331(a).

Although § 1331(a) was not specifically pleaded in the complaint, a review of the entire complaint demonstrates that a federal question exists. The plaintiffs sought a judicial construction of the Federal-Aid Highway Act and the amount in controversy obviously exceeded $10,000. In *Sikora v. Brenner*, 379 F. 2d 134 (D.C. Cir. 1967), the plaintiff alleged jurisdiction under 35 U.S.C. 145. The district court dismissed for lack of subject matter jurisdiction. However, on appeal, the appellate court found that jurisdiction existed under 5 U.S.C. § 704. The court stated:

"The District Court's jurisdiction was established by the allegations of operative facts bringing the controversy within the scope of the statute conferring jurisdiction on the court. The court's jurisdiction was neither dependent upon nor removable by any reference to or recitation of a statute in the allegations." 379 F. 2d at 136.

Moreover, since the complaint clearly establishes that federal question jurisdiction did exist, there is no need for this court to remand in order to amend the pleadings to specifically allege 1331(a) as a basis of jurisdiction. See *Norton v. Larney*, 266 U.S. 511, 516 (1925). We can assume that the complaint has been amended to conform to this fact and proceed to review the district court's judgment on the merits. See also *National Farmers Union Property & Casualty Co. v. Fisher*, 284 F. 2d 421, 423 (8 Cir. 1960); *Parker v. Gordon*, 178 F. 2d 888, 890 n. 2 (1 Cir. 1949).

Footnotes at end of article.

JUSTICIABILITY

In view of our finding as to mootness under the mandamus action, we raise the question of whether the declaratory judgment is likewise moot for purposes of this appeal. We decide it is not. It is recognized that "[w]here one of the several issues presented becomes moot, the remaining live issues supply the constitutional requirement of a case or controversy." *Powell v. McCormack*, 395 U.S. 486, 497(1969). Moreover, a court may grant a declaratory judgment even though it declines to issue an injunction or writ of mandamus. *Id.* at 499. An action for declaratory relief statisfies the requirements of a "case or controversy" when it would have significant consequences in determining the extent of any further relief deemed necessary if the illegal conduct should be expected to resume in the future. *Gautreaux v. Romney*, 448 F.2d 731, 736 (7 Cir. 1971).

It is generally held that the voluntary cessation of allegedly illegal conduct does not make a case moot if there is a "reasonable expectation" that the wrong will be repeated. *United States v. W. T. Grant Co.*, 345 U.S. 633 (1953). See also *United States v. Concentrated Phosphate Export Ass'n., Inc.*, 393 U.S. 199, 203 (1968). However, when the actions questioned are those of the government, the mere probability of recurrence must be coupled with a certainty that the impact will fall on the same objecting litigants. *Committee to Free the Fort Dix 38 v. Collins*, 429 F.2d 807, 812 (3 Cir. 1970); see generally *Mootness on Appeal in the Supreme Court*, 83 Harv. L. Rev. 1672 (1970). In the instant case, it is conceded by the Secretary that further contract controls will be imposed and that Missouri will most certainly be affected. We therefore find sufficient basis to justify appellate review of the district court's declaratory judgment.

The Secretary asserts the lack of justiciability on the ground that the case presents political questions not appropriate for judicial resolution. Counsel suggests that what is involved is the "[e]xecutive's power to control the rate of expenditure of funds" and that this is a political question. We disagree. The only issue before the district court and and this court is the question of statutory construction, i.e., whether the Secretary of Transportation, pursuant to his delegated duties under the Federal-Aid Highway Act, can withhold from the State of Missouri, for the reasons he stated, the authority to obligate funds duly apportioned to the state under the Act. Surely such a determination is within the competence of the courts. Cf. *Barlow v. Collins*, 397 U.S. 159, 166 (1970).

As was recently observed, "[i]n our overall pattern of government the judicial branch has the function of requiring the executive (or administrative) branch to stay within the limits prescribed by the legislative branch." *National Automatic Laundry and Cleaning Council v. Shultz*, 443 F.2d 689, 695 (D.C. Cir. 1971). Resolution of the issue before us does not involve analysis of the Executive's constitutional powers. Nothing in the present record demonstrates that the Secretary of Transportation will continue to exercise controls beyond that which judicial construction finds permissible within the statute. To the contrary, at oral argument counsel for the government stated, "I suppose our brief comes as close as it can to conceding that were Congress to make this mandatory, that would be the end of the case. . . . I would say almost certainly that without tending to give away what the White House might decide in any particular statute, that where it is mandated clearly, the Executive would have to spend that money or would spend the money." The issue before us is not whether the Secretary abused his discretion in imposing contract controls but whether the Secretary has been delegated any discretion to so act in the first place. Cf. *Constructores Civiles de Centroamerica, S.A. v. Hannah*, 459 F.2d 1183, 1192 (D.C. Cir. 1972). It is difficult to frame the Article III duty of the judicial branch of government under these circumstances in any more meaningful terms than did Mr. Justice Reed in *Stark v. Wickard*, 321 U.S. 288, 309–310 (1944):

"When Congress passes an Act empowering administrative agencies to carry on governmental activities, the power of those agencies is circumscribed by the authority granted. This permits the courts to participate in law enforcement entrusted to administrative bodies only to the extent necessary to protect justiciable individual rights against administrative action fairly beyond the granted powers. The responsibility of determining the limits fo statutory grants of authority in such instances is a judicial function entrusted to the courts by Congress by the statutes establishing courts and marking their jurisdiction. Cf. *United States v. Morgan*, 307 U.S. 183, 190–91. This is very far from assuming that the courts are charged more than administrators or legislators with the protection of the rights of the people. Congress and the Executive superivse the acts of administrative agents. The powers of departments, boards and administrative agencies are subject to expansion, contraction or abolition at the will of the legislative and executive branches of the government. These branches have the resources and personnel to examine into the working of the various establishments to determine the necessary changes of function or management. But under Article III, Congress established courts to adjudicate cases and controversies as to claims of infringement of individual rights whether by unlawful action of private persons or by the exertion of unauthorized administrative power."

Thus, we conclude that the present case presents a justiciable issue capable of judicial resolution.

THE FEDERAL-AID HIGHWAY ACT

This then brings us to the merits of the controversy—the construction of the Federal-Aid Highway Act as it relates to defining the Secretary's delegated authority. A threshold requirement is a rudimentary understanding of the Act.

Congress deemed it within the "national interest to accelerate the construction of the Federal-aid highway systems" to serve local and interstate commerce and to enhance national and civil defense. 23 U.S.C. § 101(b) (1970). The objective of the Act was the creation of a National System of Interstate and Defense Highways. The system was to be completed "as nearly as practicable" over the period of twenty years on an expedited construction basis. *Id.*

Based upon specific formulas set forth within the Act, the Secretary is required to apportion among the several states certain sums authorized to be appropriated for expenditure.[8] 23 U.S.C. § 104(b). After the apportionment, the states, through their respective highway departments, are to submit programs of proposed projects based upon the apportioned funds. The Secretary is instructed in Section 105(a) to "act upon programs submitted to him as soon as practicable after the same have been submitted." Section 106(a) then provides that "as soon as practicable after program approval," specific "surveys, plans, specifications, and estimates for each proposed project" will be submitted to the Secretary for his approval. In this regard, Section 106(a) specifically states that in approving the project plans "the Secretary shall be guided by the provisions of section 109 of this title."[9] It is at this stage that the contract controls are imposed, for once a project is approved by the Secretary it "shall be deemed a contractual obligation of the Federal Government for the payment of its proportional contribution thereto." 23 U.S.C. § 106(a). On the basis of this approval,

states are permitted to obligate the apportioned funds through the letting of construction contracts, etc. Section 118(b) provides that the sums "available for expenditure" [10] shall remain available for expenditure in that state for a period of two years after the close of the fiscal year for which the sums are authorized, and any funds not expended after that time shall lapse, except that unexpended funds apportioned for the Interstate System shall "immediately be reapportioned among the other States. . . ." The final stage of the Act is the appropriation by Congress of money from the Highway Trust Fund to pay the state the proportional federal share of construction costs incurred in the partial of total completion of the highway projects.

In 1966 President Johnson, in transmitting his proposals to Congress, announced that there would be a deferral of lower priority federal expenditures by approximately $3 billion in order to curb inflation and assure the stability of the economy (H.R. No. 492, 89th Cong., 2d Sess. (1966)). Thereafter, on November 23, 1966, the Director of the Bureau of the Budget advised the Department of Treasury that the federal highway program would have to bear its share of such deferrals. Accordingly, the program was limited to $3 billion in total project obligations during fiscal year 1967.[11] This was done notwithstanding provisions in the Highway Act authorizing over $4 billion to be apportioned to the states for highway construction.

In light of this, the Secretary of Transportation sought the opinion of the Attorney General of the United States as to the Secretary's authority to defer obligations under the Highway Act. The opinion of Ramsey Clark, Acting Attorney General of the United States, was issued on February 25, 1967. Attorney General Clark concluded that "the Secretary has the power to defer the availability to the States of those funds authorized and apportioned for highway construction which have not, by the approval of a project, become the subject of a contractual obligation on the part of the Federal Government in favor of a State." 42 Op. Att'y Gen. No. 32 (1967).

The essential theses upon which the Secretary defends his authority to impose contract controls under the Federal-Aid Highway Act turns on three arguments: (1) that appropriation acts are permissive in nature and do not provide a specific mandate that the funds authorized to be apportioned must be expended; [12] (2) that there exists no vested right by the states in the appropriated funds until such time that the Secretary gives his approval; and (3) that the language of Section 101(c) is precatory and although expressing Congress' "desire" and "policy" that highway funds not be impounded, the terms of the statute are not mandatory.

We find these arguments unavailing. The claim that a general appropriation act is deemed permissive in nature as far as it constitutes a mandate to expend funds has not escaped criticism.[13] Nevertheless, assuming the proposition to be true, it still does not provide a bottom on which to premise either a direct or implied authorization within the Federal-Aid Highway Act to administer contract controls. For although a general appropriation act may be viewed as not providing a specific mandate to expend *all* of the funds appropriated, this does not *a fortiori* endow the Secretary with the authority to use unfettered discretion as to when and how the moneys may be used. The Act circumscribes that discretion and only an analysis of the statute itself can dictate the latitude of the questioned discretion. *Civil Aeronautics Board v. Delta Air Lines, Inc.*, 367 U.S. 316, 322 (1961); *Federal Trade Commission v. National Lead Co.*, 352 U.S. 419, 428 (1957); *Stark v. Wickard*, 321 U.S. 288, 309 (1944); *Pentheny, Ltd. v. Government of the Virgin Islands*, 360 F.2d 786, 790 (3 Cir. 1966).

The second contention raised by the Secretary is that the states have no vested interest in the funds at the time the Secretary exercises his contract control. This argument is premised on Section 106(a) of the Act which states that approval of the Secretary is a prerequisite to the contractual obligation of the United States. It is, therefore, urged that the statute is not mandatory and that the Secretary has the authority to withhold his approval up to two years time.[14] Assuming arguendo that the states have no vested right in the funds until such time as the Secretary approves the specific projects we fail to see that this provides a basis for finding that the Secretary has lawful discretion to *withhold his approval* of projects for reasons not contemplated within the Act.[15]

The remaining argument of the Secretary is that Section 101(c) of the Act demonstrates that Congress deems impoundment of funds permissive. Section 101(c) specifically provides:

"(c) It is the sense of Congress that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-aid system which has been apportioned pursuant to the provisions of this title shall be impounded or withheld from obligation. . . ."

The Secretary urges that "the sense of Congress" language is precatory and simply expresses the wishes of Congress rather than a specific mandate of proscription. Assuming for the moment that this be corect, we find the argument still not controlling the issue before us. The fundamental issue is whether the Secretary possesses direct or implied authority to exercise contract controls for the reasons advanced here. Such authority, if it exists at all, must be gleamed from the language of the Act itself.

We turn then to an analysis of the statute. At the outset we note that in legislating the Federal-Aid Highway Act, Congress was acting under Article I, § 8 wherein it is given its express constitutional authority to establish "post Roads." After granting several additional powers to Congress, Article I, § 8 concludes by setting forth that Congress may "make all Laws which shall be necessary and proper for carrying into Execution the foregoing Powers, and all other Powers vested by this Constitution in the Government of the United States, or in any Department or Office thereof." It seems reasonable to say that until and unless Congress acted under Article I, neither the Secretary nor anyone else within the Executive branch of the government could build a federally aided highway system. The only branch of government which has the constitutional power to build roads is the only one which has the authority to dictate the terms under which the construction can be carried out. It should require no citation of authority to reaffirm the proposition that the Secretary's authority is limited to carrying out the law according to its terms.

In construing the statute, we adhere to the basic canon of construction observed in *Richards v. United States:*

"We believe it fundamental that a section of a statute should not be read in isolation from the context of the whole Act, and that in fulfilling our responsibility in interpreting legislation, 'we must not be guided by a single sentence or member of a sentence, but [should] look to the provisions of the whole law, and to its object and policy.'" 369 U.S. 1, 11 (1962).

And as stated in 2 Sutherland, Statutory Construction § 2802, at 215 (3d ed. 1943), "[t]he statute should be construed according to its subject matter and the purpose for which it was enacted." Over a century ago, Lord Campbell noted, "[i]t is the duty of the Courts of Justice to try to get at the real intention of the Legislature by carefully attending to the *Whole scope* of the statute to be construed." (Emphasis ours.) *Liverpool Borough Bank v. Turner*, 45 Eng.Repr. 715, 718 (1860), aff'd, 70 Eng.Repr. 703. See generally *Thompson v. Clifford*, 408 F.2d 154, 158 (D.C. Cir. 1968); *United States v. St. Regis Paper Co.*, 355 F.2d 688, 692 (2 Cir. 1966); *Joanna Western Mills Co. v. United States*, 311 F.Supp. 1328, 1335 (Cust.Ct. 1970).

Under the Federal-Aid Highway Act Congress has provided for a coherent scheme of statutory duties relating to the Secretary of Transportation. While the Secretary is given the discretion to approve or disapprove a state highway program under the statute, nevertheless he must act within *specific* directions relating to efficiency, safety and overall compliance with the Act itself. Within Sections 105(a) and 106(a), the Secretary is given the discretion to approve a state's programs and projects, respectively. However, in both instances the statute sets out detailed considerations designed to guide the Secretary's approval.[16] In this regard, it is clear that Congress did contemplate that the Secretary exercise administrative expertise to see that the apportioned funds are not expended on projects which fail to meet *reasonable* standards of cost. Such administrative stewardship is implicit within Section 106(d) of the Act which reads:

"(d) In such cases as the Secretary determines advisable, plans, specifications, and estimates for proposed projects on any Federal-aid system shall be accompanied by a value engineering or other cost reduction analysis."

Moreover, the Secretary is authorized to oversee the letting of contracts (23 U.S.C. § 112) and to insure that prevailing wage rates are maintained (23 U.S.C. § 113). We find nothing within these provisions of the Act which explicitly or impliedly allows the Secretary to withold approval of construction projects for reasons remote and unrelated to the Act. The statute specifically sets out when the Secretary is justified in withholding funds from the states. This authority generally relates to guarding against the depletion of the Highway Trust Fund. The Secretary is given the express power to withhold obligational authority for a given fiscal year if the Secretary of Treasury determines that "the amounts which will be available in such fund . . . will be insufficient to defray the expenditures which will be required as a result of the apportionment to the States of the amounts authorized . . . ." Section 209(g) of the Federal-Aid Highway Act of 1956, 70 Stat. 400, 23 U.S.C. § 120 note. See also 23 U.S.C. § 101(c).

As has cogently been observed, "[w]here Congress has consistently made express its delegation of a particular power, its silence is strong evidence that it did not intend to grant the power." *Alcoa Steamship Co. v. Federal Maritime Commission*, 348 F.2d 756, 758 (D.C.Cir. 1965). Cf. *Zuber v. Allen*, 396 U.S. 168, 183 (1969); *Addison v. Holly Hill Fruit Products*, Inc., 322 U.S. 607, 617 (1944). To reason that there is implicit authority within the Act to defer approval for reasons totally collateral and remote to the Act itself requires a strained construction which we refuse to make. It is impossible to find from these specific grants of authority discretion in the Secretary to withhold approval on projects Congress has specifically directed because of a system of priorities the Executive chooses to impose on all expenditures. The Congressional intent is that the Secretary may exercise his discretion to insure that the roads are well constructed and safely built at the lowest possible cost, all in furtherance of the Act, but when the impoundment of funds impedes the orderly progress of the federal highway program, this hardly can be said to be favorable to such a

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program. In fact, it is in derogation of it. It is difficult to perceive that Congress intended such a result.

SECTION 118(B)

The Secretary additionally urges that since Section 118(b) provides that the sums are to be available for expenditure for a period of two years before they lapse, it is perfectly legal for him to withhold obligational authority so long as the states receive their full obligational authority within the two-year period. This is not only contradictory of the government's position that the states have no vested interest in the monies authorized, but this misconstrues the intent of Section 118(b) as well. That section provides: "Such sums shall continue available for expenditure *in that state* . . . for a period of two years. . . ." (Our emphasis.) This simply means that the money is to be available for an individual state to use, and if any state does not obligate all their money within the two-year period, then the money will lapse. The statute is not directed at permitting the federal government to withhold the money as it sees fit so long as the states are allowed to obligate the funds within two years. This construction finds support in the legislative history. In the Senate Report to the Federal Aid in the Construction of Rural Post Roads Act, which was the initial federal legislation supporting highway construction, the following appears:

"Section 3 also provides that the unexpended portions of the appropriations at the close of any fiscal year shall be available for expenditure until the close of the succeeding fiscal year. This will prevent both undue haste in the expenditure of the appropriation *to prevent its being turned back into the Federal Treasury and the defeating of the purpose of the act by failure to adequately and wisely expend it for the purpose of road improvement.* In order that *the States* having no highway departments may not be penalized pending the meeting of their State legislatures, *this section allows them until the close of the third fiscal year succeeding the year for which appropriation was made [in order to arrange for expenditure.]*" (Italic ours.) S. Rep. No. 250, 64th Cong., 1st Sess. (1916).

The bracketed language clearly indicates that any expenditures are to be arranged by the states within the two years. Furthermore, in the Conference Report to the Federal-Aid Highway Act of 1956, it is noted that the funds *available* for *expenditure* will lapse if unexpended at the end of the two-year period. In discussing the availability for expenditure, the Committee observed:

"(f) Availability for expenditure.—The language of the House bill (sec. 108(h)) and the conference agreement (sec. 108(f)) are identical in this respect. Th conferees took note of the fact that *some States have not yet obligated* all of the funds previously apportioned to them under the authorizations contained in the Federal-Aid Highway Act of 1954, wherein the matching ratio is 60–40 instead of the more liberal 90–10 ratio provided in the conference agreement. It is intended by the conferees that the Secretary of Commerce will take such steps as may be necessary to insure that *each State shall utilize all 60–40 funds apportioned to it before the lapse period and that no State will be permitted to deliberately lapse* any of the 60–40 funds in order to substitute therefor the more favorable 90–10 funds and thereby increase the total Federal funds going into any State for he Interstate Ssystem." (Italic ours.) H.R. Rept. No. 2436, 84th Cong., 2d Sess., (1956); U.S. CODE, CONG. & ADM. NEWS at 2896 (1956).

Thus, there is a clear indication that Congress intended that the obligation of funds within the lapse period be a continuing duty of the states. Once this premise is recognized, it is not persuasive for the Secretary to argue that the lapse period of 118(a) was intended for the benefit of the Secretary. The government position is similarly weakened by reference to Section 101(b) of the Act where it is declared to be in the national interest to accelerate the construction of the highway system. As noted earlier, this same theme appears throughout the Act wherein Congress directs the states and the Secretary to act "as soon as practicable."

SECTION 101(c)

When the provisions of the Federal-Aid Highway Act are considered as a whole, it is apparent that the Secretary does not have the authority to withhold funds for anti-indationary purposes. This construction is supported by Section 101(c). After the Attorney General's opinion[17] in 1967 ruled that impoundment of highway funds was permissible under the Highway Act, Congress passed Section 101(c) specifically saying that it "was the sense of Congress that under existing law" the Secretary was not to impound funds under the Federal-Aid Highway Act. Upon subsequent amendment to the Act in 1970, the House Report significantly stated:

"It has been clearly demonstrated that the Federal-aid highway program can operate successfully and efficiently only so long as its planning and programming can be based on an assured comparatively long-term level of financing.

"The withholding of highway trust funds as an anti-inflationary measure is a clear violation of the intent of the Congress as expressed in section 15 of the Federal-Aid Highway Act of 1968. We again wish to emphasize the clear legislative intent that funds apportioned shall not be impounded or withheld from obligation. . . ." (Italic ours.) H.R. Rept. No. 91–1554, 91st Cong., 2d Sess. (1970); U.S. CODE, CONG. & ADM. NEWS at 5401 (1970).

However, assuming, as the Secretary contends, that the "sense of Congress" language is precatory and merely reflects a policy statement, nevertheless, such language can be useful in resolving ambiguities in statutory construction. See *Connecticut Light & Power Co.* v. *Federal Power Commission*, 324 U.S. 515, 527 (1945); 2 Sutherland, Statutory Construction § 4820 (3d ed. 1943). Moreover, Section 101(c) takes on an added significance since it is a Congressional interpretation of prior law—for the words used are "it is the sense of Congress that under existing law." And as the most recent pronouncement of the Supreme Court observes: "Subsequent legislation declaring the intent of an earlier statute is entitled to great weight in statutory construction." *Red Lion Broadcasting Co.* v. *FCC*, 395 U.S. 367, 380–381 (1969). Accord, *Federal Housing Administration* v. *The Darlington, Inc.*, 358 U.S. 84, 90 (1958); *Banco Nacional de Cuba* v. *Farr*, 383 F.2d 166, 175 (2 Cir. 1967), cert. denied, 390 U.S. 956 (1968). But see *Waterman Steamship Corp.* v. *United States*, 381 U.S. 252 (1965).

Thus, we find Section 101(c) merely *corroborates* what, as was pointed out earlier, the statute as a whole already provides—that apportioned funds are not to be withheld from obligation for purposes totally unrelated to the highway program.[18]

Finally, the Secretary urges that it is significant that Congress has failed to pass subsequent legislation specifically prohibiting the Secretary from withholding obligational authority. We deem this another straw in the wind.

When attempting to determine the meaning and intent of a particular statute, it is generally held that the rejection by Congress of amendments or other legislation relating to the statute in question is "not conclusive as to the meaning of the bill in the unamended form. . . . It is, however, a circumstance to be weighed along with others when choice is nicely balanced." *Fox* v. *Standard Oil Co.*, 294 U.S. 87, 96 (1935). However, under the facts of the instant case, these rejections by Congress are of even lesser consequence, for the necessary balance is missing. In *Fox* the amendment was debated and rejected by a vote of the entire Senate. In the present case, there were four principal bills introduced which would have prohibited the Secretary from impounding any highway funds—S. 4049, 90th Cong., 2d Sess. (1968); H.R. 1214, 91st Cong., 1st Sess. (1969); S. 3877, 92d Cong., 2d Sess. (1972); and S. 3939, 92d Cong., 2d Sess. (1972). Of these four bills, the first three have never even been reported out of committee.[19] There have been no committee hearings, reports, floor debates, or floor votes on these measures. They simply died in committee for no explained reason. The last bill, S. 3939, contained an alternative procedure which would have precluded the Secretary from withholding obligational authority. Only the Senate Report contained this procedure—it was not part of the House Report.[20] When the Conference Report was submitted the alternative procedure was dropped altogether, with no concomitant explanation. H.R. Rep. No. 92–1619, 92d Cong., 2d Sess. (1972).[21]

Under such circumstances, there is no way of ascertaining why these various bills were not enacted. The Secretary argues that Congress did not want to proscribe the Secretary's alleged authority to withhold obligational authority. But it is equally plausible that Congress felt that the bills were unnecessary—that it was their understanding that the Federal-Aid Highway Act as then existing already precluded any deferral of obligational authority. When the rejection of these bills is viewed in this light, this legislative history is of no assistance in construing the Act. As the Supreme Court noted in *Order of Railway Conductors of America v. Swan*, 329 U.S. 520, 529 (1947):

"Finally, petitioners point out that Congress has failed to amend § 3, First (h), so as specifically to exclude 'yardmasters and other subordinate officers' from the jurisdiction of the First Division, despite the introduction of two bills to that effect in the Senate in 1940 and 1941. *These bills were sent to an appropriate committee, but were never reported out. It does not appear whether the bills died because they were thought to be unnecessary or undesirable. No hearings were held; no committee reports were made. Under such circumstances, the failure of Congress to amend the statute is without meaning for purposes of statutory interpretation.*"[22]

See also *Arnold Tours, Inc. v. Camp*, Nos. 72–1142, 1143 (1 Cir. Dec. 13, 1972); *Miller v. United States*, 180 Ct. Cl. 872, 877 (1967); *Brannan v. Stark*, 185 F.2d 871 883 (D.C. Cir. 1950), aff'd, 342 U.S. 451 (1952); see generally Hart, *Comment on Courts and Lawmaking*, in Paulsen, ed. *Legal Institutions Today And Tomorrow* 45–47 (The Centennial Conference Volume of the Columbia Law School, 1959); Folsom, *Legislative History* 38 (1972).

ANTI-DEFICIENCY ACT

Although the applicability of the Anti-Deficiency Act, 34 Stat. 49, as amended, 64 Stat. 765, 31 U.S.C. § 665(c), was not argued on this appeal, the conclusion we reach is not at variance with the provisions of that Act. Section 665(c)(2) allows the Bureau of the Budget (now OMB), when apportioning appropriation funds, to set up reserves (i.e., withhold the funds) in order "to provide for contingencies, or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such appropriation was made available." However, the Act goes on to point out that the reserves may

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only be established when the funds *"will not be required to carry out the purposes of the appropriation concerned. . . ."* (Emphasis ours.) The legislative history is emphatic in noting that this power to withhold funds cannot be used if it would jeopardize the policy of the statute.

"It is perfectly justifiable and proper for all possible economies to be effected and savings to be made, *but there is no warrant or justification for the thwarting of a major policy of Congress by the impounding of funds.* If this principle of thwarting the will of Congress by the impounding of funds should be accepted as correct, then Congress would be totally incapable of carrying out its constitutional mandate of providing for the defense of the Nation." (Italic ours.) H.R. Rept. No. 1797, 81st Cong., 2d Sess. 311 (1950). It is thus apparent that any withholding in order to "effect savings" or due to "subsequent events," et cetera, must be considered in context of not violating the purposes and objectives of the particular appropriation statute. Such purposes and objectives are necessarily violated when one charged with implementing the statute acts beyond his delegated authority.

CONCLUSION

We conclude that the statutory provisions of the Federal-Aid Highway Act of 1956, as amended, 23 U.S.C. 101 et seq. (1970), do not expressly or impliedly authorize the Secretary to withhold the authority to obligate apportioned funds where the only reasons are those advanced by the Secretary in this case.

As earlier indicated the issuance of the writ of mandamus is now moot and is hereby ordered vacated. The judgment granting declaratory relief in favor of the plaintiff is affirmed. The defendants are hereby enjoined from withholding from the State of Missouri, now and in the future, the authority to obligate its apportioned funds under the Federal-Aid Highway Act for reasons allegedly relating to the status of the economy and the need to control inflationary pressures.

Judgment affirmed, as modified.

FOOTNOTES

[1] In addition to several states, the following also submitted an amicus curiae brief on behalf of the appellee: Senator Samuel J. Ervin, Jr., Chairman, Government Operations Committee; Senator James O. Eastland, President *Pro Tempore*, Chairman, Judiciary Committee; Senator Michael J. Mansfield, Majority Leader; Senator Robert C. Byrd, Assistant Majority Leader; Senator Jennings Randolph, Chairman, Public Works Committee; Senator John L. McClellan, Chairman, Appropriations Committee; Senator Howard W. Cannon, Chairman, Aeronautical & Space Sciences Committee; Senator Thomas F. Eagleton, Chairman, District of Columbia Committee; Senator J. W. Fulbright, Chairman Foreign Relations Committee; Senator Vance Hartke, Chairman, Veterans' Affairs Committee; Senator Henry M. Jackson, Chairman, Interior & Insular Affairs Committee; Senator Gale W. McGee, Chairman, Post Office & Civil Service Committee; Senator Warren G. Magnuson, Chairman, Commerce Committee; Senator Lee Metcalf, Chairman, Joint Committee on Congressional Organization; Senator John Sparkman, Chairman, Banking, Housing & Urban Affairs Committee; Senator Stuart Symington; Senator Harrison A. Williams, Jr., Chairman, Labor & Public Welfare Committee; Representative J. J. Pickle; Representative Benjamin Rosenthal; Representative Morris K. Udall; Senator John A. Stennis, Chairman, Armed Services Committee; Senator Herman E. Talmadge, Chairman, Agriculture & Forestry Committee; Senator Frank E. Moss, Chairman, Aeronautical & Space Sciences Committee; Senator Hubert H. Humphrey; Senator John V. Tunney; Representative William V. Alexander, Jr.; Representative Robert F. Drinan; and Public Citizen, Inc.

[2] As amended, 23 U.S.C. § 101 et seq. (1970). The act of deferring authority to obligate funds is generally referred to as "contract controls."

[3] Under Section 209 of the Federal-Aid Highway Act of 1956, 23 U.S.C. § 120 note, there is established a Highway Trust Fund. Appropriated into that fund are specified percentages of certain highway user taxes, such as taxes on diesel fuel, gasoline, trucks, tires, etc., which are received into the Treasury. These funds are then used to reimburse the states for expenditures under the Federal-Aid Highway Act.

[4] The district court restricted its issuance of mandamus to fiscal year 1973. The date of the district court's hearing was June 19, 1972, and the record shows that on June 15, 1972, Missouri was informed that it would be entitled to obligate all of the funds originally apportioned for the fiscal year 1973. Thus, on the date of judgment, August 7, 1972, there was no specific duty breached and nothing remained to be ordered for the Secretary to carry out.

[5] The original action was commenced on August 14, 1970, and related to highway funds impounded for the fiscal year ending June 30, 1971. This was dismissed as moot since the court found that at the time of trial the contract controls had been removed and that Missouri had been allowed to obligate all funds which had originally been apportioned for that fiscal year and previous fiscal years. However, the court permitted Missouri to file an amended complaint to pursue its claims for the years after the fiscal year ending June 30, 1972.

[6] The possible difficulty with mandamus is the judicial gloss requiring that the duty sought must be a positive command so plainly defined as to be free from doubt. *Prairie Band of Pottawatomie Tribe of Indians v. Udall*, 355 F. 2d 364 (8 Cir. 1966), cert. denied, 385 U.S. 831. As the Supreme Court has stated, "where the duty . . . depends upon a statute or statutes the construction or application of which is not free from doubt, it is regarded as involving the character of judgment or discretion which cannot be controlled by mandamus." *Wilbur v. United States ex rel. Kadrie*, 281 U.S. 206, 219 (1930). Nevertheless, if the Secretary was not delegated any discretionary power to withhold obligational authority for anti-inflationary purposes, the Secretary would be acting outside the scope of his power and it would appear that mandamus was intended to provide a basis for such relief. See *Peoples v. United States Department of Agriculture*, 427 F. 2d 561, 565 (D.C. Cir. 1970)—"While the statute [1361] is couched in terms of mandamus action, its liberalizing purpose . . . was intended to permit District Courts generally to issue appropriate corrective orders where Federal officials are not acting within the zone of their permissible discretion but are abusing their discretion or otherwise acting contrary to law. . . ." See also *Udall v. Wisconsin, Colorado and Minnesota*, 306 F. 2d 790, 793 (D.C. Cir. 1962), cert. denied, 371 U.S. 969 (1963). See generally Byse and Fiocca, *Section 1361 Of The Mandamus And Venue Act of 1962 And "Nonstatutory" Judicial Review Of Federal Administrative Action*, 81 Harv. L. Rev. 308 (1967). However, it is apparent that any issue concerning a writ of mandamus is moot as far as this appeal is concerned. See note 4 supra.

[7] Federal courts are apparently divided as to whether Section 10 of the APA confers independent jurisdiction (Section 10 generally provides that "[a] person suffering legal wrong because of agency action . . . is entitled to judicial review thereof," and that "final agency action for which there is no other adequate remedy in a court [is] subject to judicial review."). Compare *Brennan v. Udall*, 251 F. Supp. 12 (D. Colo. 1966), aff'd, 379 F. 2d 803 (10 Cir. 1967), cert. denied, 389 U.S. 975, with *Arizona State Department of Public Welfare v. Department of HEW*, 449 F. 2d 456, 464 (9 Cir. 1971), cert. denied, 405 U.S. 919 (1972). For a general review of the problem, see Cramton, *Nonstatutory Review Of Federal Administrative Action: The Need For Statutory Reform Of Sovereign Immunity, Subject Matter Jurisdiction, And Parties Defendant*, 68 Mich. L. Rev. 387, 444 (1970). This court has held that the APA does not confer independent jurisdiction. *Twin Cities Chippewa Tribal Council v. Minnesota Chippewa Tribe*, 370 F. 2d. 529, 532 (8 Cir. 1967). Although the Supreme Court has not spoken directly to the issue, its recent cases tend to look favorably upon construing Section 10 as an affirmative grant of jurisdiction. See, e.g., *Rusk v. Cort*, 369 U.S. 367, 371–372 (1962); *Abbott Laboratories v. Gardner*, 387 U.S. 136, 141 (1967); *Gardner v. Toilet Goods Ass'n.*, 387 U.S. 167, 177 (1967) (opinion of Fortas, J.); *Citizens; to Preserve Overton Park v. Volpe*, 401 U.S. 402 (1971). See generally Byse and Fiocca, supra note 6, at 330–331.

[8] In referring to the above-mentioned formula, former Federal Highway Administrator, F. C. Turner, has observed: "There is absolutely no discretion of any kind in our office with respect to how much any State gets in any of these categories of funds [pursuant to the formula]. The apportionment is specified in the law and we distribute it right to the dollar." Testimony reported in Hearings on Executive Impoundment of Appropriated Funds Before the Subcommittee on Separation of Powers of the Committee on the Judiciary, 92nd Cong., 1st Sess. at 80 (1971) [hereinafter cited as Senate Hearings].

[9] In Section 109 Congress sets forth some ten detailed standards which are to guide the Secretary's approval under § 106(a). These standards relate to construction and safety considerations. See note 16 infra.

[10] Under Section 118(b), "expenditure" is defined:

". . . . Such sums for any fiscal year shall be deemed to be expended if a sum equal to the total of the sums apportioned to the State for such fiscal year and previous fiscal years is covered by formal project agreements providing for the expenditure of funds authorized by each Act which contains provisions authorizing the appropriation of funds for Federal-aid highways."

[11] See testimony of F. C. Turner, Senate Hearings, supra note 8, 59.

[12] Although we are not dealing with a general appropriation act, for purposes of discussion we asume that there is no essential difference between a general appropriation and the grant of authority to apportion funds to the respective states under the Federal-Aid Highway Act. The actual appropriation of money under the statute is ministerial. It does not occur until monies are appropriated to be paid from the trust fund to reimburse the states for construction already completed under the Act. See Section 209(f) of the Federal-Aid Highway Act of 1956, 70 Stat. 397, 23 U.S.C. § 120 note.

[13] See generally Stassen, *Separation Of Powers And The Uncommon Defense: The Case Against Impounding Of Weapons System Appropriations*, 57 Geo. L. J. 1159, 1181 n 117 (1969); Ramsey, *Impoundment By the Executive Department Of Funds Which Congress Has Authorized It To Spend Or Obligate*, Legislative Research Service (Library of Congress) at 15 (1968); Davis, *Congressional Power To Require Defense Expenditures*, 33 Ford. L. Rev. 39, 55 (1964).

[14] In this connection, it should be stated that the Secretary urges that his controls ordinarily involve only five months deferral and that impact on the federal highway program is not substantial. The latter fact is disputed. For example, the House Public Works Committee has observed:

"Cutbacks and freezes on the availability of highway trust fund money have been invoked by the executive branch on various occasions during the past few years, allegedly as an anti-inflationary measure, even though funds were and are available in the trust fund to meet expenditure resulting from the obligation of such funds. This curb-against-inflation argument is without merit. The resulting delays in construction inevitably mean that the costs will be greater. This stop-start manipulation of the highway program, with the uncertain position into which contractors, laborers, and State highway programers are put, cannot but help to boost the ultimate cost of the program." H.R. Rep. No. 91–1554 91st Cong., 2d Sess. (1970); U.S. Code, Cong. & Adm. News at 5401 (1970).

Whether it does or does not clearly falls outside our judicial duty here—we look to the statute and not to the result of the Secretary's action in order to determine his lawful authority.

[15] Although we find it unnecessary to decide, a reasonable construction of Section 118(a) is contrary to the Secretary's argument that the states have no inchoate interest whatsoever in the funds so apportioned. Section 118(a) provides:

"§ 118. Availability of sums apportioned.

"(a) On and after the date that the Secretary has certified to each State highway department the sums apportioned to each Federal-aid system or part thereof pursuant to an authorization under this title, or under prior Acts, such sums *shall be available for expenditure under the provisions of this title.*" (Italic ours.)

The phrase "shall be available for expenditure" is indicative of a Congressional intent that the money so apportioned may be fully obligated by the states. This can perhaps best be demonstrated by analogizing to other acts which contain somewhat similar language. For instance, in the Medical Facilities Construction and Modernization Amendments of 1970 (Hill-Burton Act), Congress stated in Section 601:

"TITLE VI—AVAILABILITY OF APPROPRIATIONS

"Sec. 601. Notwithstanding any other provision of law, unless enacted after the enactment of this Act expressly in limitation of the provisions of this section, *funds appropriated for any fiscal year* ending prior to July 1, 1973, to carry out any program for which appropriations are authorized by the Public Health Service Act (Public Law 410, Seventy-eighth Congress, as amended) or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963 (Public Law 88–164, as amended) *shall remain available for obligation and expenditure until the end of such fiscal year.*" (Italic ours.) H.R. 11102, 91st Cong., 2d Sess. (1970).

The Conference Committee Report explained the purpose of section 601:

"AVAILABILITY OF APPROPRIATIONS

"The Senate amendment would have provided that funds appropriated for any fiscal year to carry out any program under the Public Health Service Act, the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963, certain acts relating to Indian health programs, the Vocational Rehabilitation Act, the Clean Air Act, the Solid Waste Disposal Act, and title V of the Social Security Act would remain available for obligation and expenditure until the end of the fiscal year for which appropriated.

"The conference substitute is the same as the Senate amendment, except that it is limited to funds appropriated for fiscal years ending before July 1, 1973, and applies only to funds appropriated to carry out programs under the public Health Service Act or the Mental Retardation Facilities and Community Mental Health Centers Construction Act of 1963. *The purpose of this amendment is to prevent administratively imposed freezes, reductions, and rollbacks from applying to health programs authorized under these acts.* Where a program authorizes availability of appropriations for more than one fiscal year, and funds are appropriated to cover more than one fiscal year, the conferees intend that the amendment shall apply to the entire period covered by the appropriations." (Our emphasis.) H.R. Rep. No. 91–1167, 91st Cong., 2d Sess. (1970). U.S. CODE, CONG. & ADM. NEWS at 3369 (1970).

President Nixon vetoed this bill and in his message to Congress he recognized that the "shall be available for obligation and expenditure" language of Section 601 was mandatory in nature. His veto message stated in pertinent part:

"One of the most unacceptable provisions of the bill is in Section 601. Here, the Congress insists that funds appropriated for any fiscal year through 1973 to carry out the programs involved must be spent. In addition to restricting flexibility in management of Federal expenditures, this provision would interfere with my ability to comply with the limitation on total 1971 spending that has already passed the House of Representatives and has been reported by the Senate Appropriations Committee." Public Papers of the President, Richard Nixon, 1970 at 513–514. Congress subsequently passed this bill over the President's veto. See 42 U.S.C. § 201 note (1970).

In 1968, Congress enacted the Vocational Education Amendments bill. Included in that legislation was the following provision:

"AVAILABILITY OF APPROPRIATIONS

"Sec. 406. Notwithstanding any other provision of law, unless expressly in limitation of the provisions of this title, funds appropriated for any fiscal year to carry out any of the programs to which this title is applicable shall remain available for obligation until the end of such fiscal year." Section 406 of the Vocational Education Amendments of 1968, 82 Stat. 1094, 20 U.S.C. § 1226 (1970).

Although the committee reports do not satisfactorily explain this section, comments during debate on the floor indicate that the language of Section 406 was intended to prevent the withholding of any funds. For example, Senator Morse, the second ranking member of the Committee on Labor and Public Welfare which reported out the bill, stated:

"The language of section 406 simply requires that appropriations for any fiscal year for education programs which constitute a new obligational authority shall remain available for obligation until the end of the fiscal year for which they are appropriated. *This section would override any statutory authority the President might have to prevent by affirmative act the obligation of fiscal year 1969 appropriations,*" 114 Cong. Rec. 29014 (1968). (Italic ours.)

See also the remarks of Representatives Mahon and Perkins, Chairmen of the House Appropriations Committee and the Education and Labor Committee, respectively, at 114 Cong. Rec. 29480–29481 (1968). Thus, other instances where language similar to Section 118 (a)'s "shall be available for expenditure" lend support to the conclusion that once authorization for apportionment was given, Congress intended to mandate that a state's interest in the apportioned funds was at least sufficient to preclude the imposition of any contract controls.

[16] Section 105 provides in pertinent part:

"(b) In approving programs for projects on the Federal-aid secondary system, the Secretary shall require, except in States where all public roads and highways are under the control and supervision of the State highway department, that such project be selected by the State highway department and the appropriate local officials in cooperation with each other.

"(c) In approving programs for projects on the Federal-aid primary system, the Secretary shall give preference to such projects as will expedite the completion of an adequate and connected system of highways interstate in character.

"(d) In approving for projects on the Federal-aid urban system, the Secretary shall require that such projects be selected by the appropriate local officials and the State highway department in cooperation with each other.

"(e) In approving programs for projects under this chapter, the Secretary may give priority of approval to, and expedite the construction of, projects that are recommended as important to the national defense by the Secretary of Defense, or other official authorized by the President to make such recommendation.

"(f) In approving programs for projects on the Federal-aid systems pursuant to chapter 1 of this title, the Secretary shall give priority to those projects which incorporate improved standards and features with safety benefits.

"(g) In preparing programs to submit in accordance with subsection (a) of this section, the State highway departments shall give consideration to projects providing direct and convenient public access to public airports and public ports for water transportation, and in approving such programs the Secretary shall give consideration to such projects."

Section 109 provides:

"(a) The Secretary shall not approve plans and specifications for proposed projects on any Federal-aid system if they fail to provide for a facility (1) that will adequately meet the existing and probable future traffic needs and conditions in a manner conducive to safety, durability, and economy of maintenance; (2) that will be designed and constructed in accordance with standards best suited to accomplish the foregoing objectives and to conform to the particular needs of each locality.

"(b) The geometric and construction standards to be adopted for the Interstate System shall be those approved by the Secretary in cooperation with the State highway departments. Such standards, as applied to each actual construction project, shall be adequate to enable such project to accommodate the types and volumes of traffic anticipated for such project for the twenty-year period commencing on the date of approval by this Secretary, under section 106 of this title, of the plans, specifications, and estimates for actual construction of such title, of the plans, specifications, and estiproject. The right-of-way width of the Interstate System shall be adequate to permit construction of projects on the Interstate System to such standards. Such standards shall in all cases provide for at least four lanes of traffic. The Secretary shall apply such standards uniformly throughout all the States.

"(c) Projects on the Federal-aid secondary system in which Federal funds participate shall be constructed according to specifications that will provide all-weather service and permit maintenance at a reasonable cost.

"(d) On any highway project in which Federal funds hereafter participate, or on any such project constructed since December 20, 1944, the location, form and character

of informational, regulatory and warning signs, curb and pavement or other markings, and traffic signals installed or placed by any public authority or other agency, shall be subject to the approval of the State highway department with the concurrence of the Secretary, who is directed to concur only in such installations as will promote the safe and efficient utilization of the highways.

"(e) No funds shall be approved for expenditure on any Federal-aid highway, or highway affected under chapter 2 of this title, unless proper safety protective devices complying with safety standards determined by the Secretary at that time as being adequate shall be installed or be in operation at any highway and railroad grade crossing or drawbridge on that portion of the highway with respect to which such expenditures are to be made.

"(f) The Secretary shall not, as a condition precedent to his approval under section 106 of this title, require any State to acquire title to, or control of, any marginal land along the proposed highway in addition to that reasonably necessary for road surfaces, median strips, gutters, ditches, and side slopes, and of sufficient width to provide service roads for adjacent property to permit safe access at controlled locations in order to expedite traffic, promote safety, and minimize roadside parking.

"(g) The Secretary shall issue within 30 days after the day of enactment of the Federal-Aid Highway Act of 1970 guidelines for minimizing possible soil erosion from highway construction. Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

"(h) Not later than July 1, 1972, the Secretary, after consultation with appropriate Federal and State officials, shall submit to Congress, and not later than 90 days after such submission, promulgate guidelines designed to assure that possible adverse economic, social, and environmental effects relating to any proposed project on any Federal-aid system have been fully considered in developing such project, and that the final decisions on the project are made in the best overall public interest, taking into consideration the need for fast, safe and efficient transportation, public services, and the costs of eliminating or minimizing such adverse effects and the following:

"(1) air, noise, and water pollution;

"(2) destruction or disruption of manmade and natural resources, aesthetic values, community cohesion and the availability of public facilities and services;

"(3) adverse employment effects, and tax and property values losses;

"(4) injurious displacement of people, businesses and farms; and

"(5) disruption of desirable community and regional growth.

Such guidelines shall apply to all proposed projects with respect to which plans, specifications, and estimates are approved by the Secretary after the issuance of such guidelines.

"(i) The Secretary, after consultation with appropriate Federal, State, and local officials, shall develop and promulgate standards for highway noise levels compatible with different land uses and after July 1, 1972, shall not approve plans and specifications for any proposed project on any Federal-aid system for which location approval has not yet been secured unless he determines that such plans and specifications include adequate measures to implement the appropriate noise level standards.

"(j) The Secretary, after consultation with the Administrator of the Environmental Protection Agency, shall develop and promulgate guidelines to assure that highways constructed pursuant to this title are consistent with any approved plan for the implementation of any ambient air quality standard for any air quality control region designated pursuant to the Clean Air Act, as amended."

See also 23 C.F.R. §§ 1.15–1.30 (1972).

[17] 42 Op. Att'y Gen. No. 32 (1967). The Secretary has to a large extent incorporated the reasoning of the Attorney General's opinion in its brief in this court.

[18] The Secretary also urges that the right to defer funds is implicit in the precatory language of Section 101(c) since Section 101(d), relating to other expenditures under the Act, uses mandatory language and Section 101(c) does not. Section 101(d) provides:

"No funds authorized to be apportioned from the Highway Trust Fund shall be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless funds for such expenditure are identified and included as a line item in an appropriation Act and are to meet obligations of the United States heretofore or hereafter incurred under this title attributable to the construction of Federal-aid highways or highway planning, research, or development, or as otherwise specifically authorized to be appropriated from the Highway Trust Fund by Federal-aid highway legislation."

The simple explanation for the difference in language is that subsection (c) refers to "existing law" whereas subsection (d) does not. No significance was intended by the conferees. See H.R. Rep. No. 91–1780, 91st Cong., 2d Sess. (1970); U.S. Code, Cong. & Adm. news at 5459 (1970). H.R. Rep. No. 91–1554, 91st Cong., 2d Sess (1970); US Code, Cong. & Adm. News at 5401–5402 (1970).

[19] See CCH, *Congressional Index*, for years 1968, 1969 and 1972.

[20] See S. Rep. No. 92–1081, 92nd Cong., 2d Sess. (1972); H.R. Rep. No. 92–1443, 92d Cong., 2d Sess. (1972).

[21] The floor debate on the Conference Report indicates that the most controversial provision of S. 3939 concerned using funds from the Highway Trust Fund for purposes of funding a mass transit program. It is apparent that the inability of the conferees to agree on this point also prevented several other provisions of the bill from being considered on their merits. See 118 Cong. Rec. 36346 *et seq.* (1972); 118 Cong. Rec. 37309 *et seq.* (1972); 118 Cong. Rec. 37132 *et seq.* (1972). Although the Conference Report was reported out, Congress adjourned before completing final action on this bill.

[22] In accord is Chief Justice Warren's observation in *United States v. Wise*, 370 U.S. 405, 411 (1962):

"The appellee seeks succor in the subsequent legislative history accompanying attempts to amend the Sherman Act between 1890 and 1914. He particularly relies upon H.R. 10539, 56th Cong., 1st Sess. (1900). This bill would have expressly included corporate officers and agents in the definition of 'persons' found in § 8. The report accompanying that bill stated that the existing law did not subject agents, officers, and attorneys to penalties. H.R. Rep. No. 1506, 56th Cong., 1st Sess. However, statutes are construed by the courts with reference to the circumstances existing at the time of the passage. *The interpretation placed upon an existing statute by a subsequent group of Congressmen who are promoting legislation and who are unsuccessful has no persuasive significance here . . . Logically, several equally tenable inferences could be drawn from the failure of the Congress to adopt an amendment in the light of the interpretation placed upon the existing law by some of its members, including the inference that the existing legislation already incorporated the offered change.*" (Italic ours.)

STEPHENSON, CIRCUIT JUDGE, DISSENTING

I respectfully dissent. It is my view that the district court erred in holding that the Executive Branch has no discretion to control the rate of obligation of funds apportioned under the Federal-Aid Highway Act. The language of the statute and its historical interpretation clearly demonstrate a deliberate choice by Congress to grant to the Executive discretion in determining the extent to which apportioned funds will be made available for obligation.

The expenditure of funds pursuant to the Federal-Aid Highway Act of 1956 (23 U.S.C. § 101 et seq.) is a step-by-step process. The program involves successive, and distinct, stages of authorizations, apportionments, programs, projects and appropriations. The basic *authorization* for appropriations for the Interstate Highway system is found in section 108(b) of the Federal-Aid Highway Act of 1956. The funds expected to be available with respect to each fiscal year included in these authorizations are then *apportioned* among the states on or before the first day of January preceding the fiscal year for which they are authorized to be appropriated. 23 U.S.C. § 104(a). Funds so apportioned remain available for obligation at any time prior to the close of the second fiscal year after the fiscal year for which they are authorized. 23 U.S.C. § 118(a), (b). After apportionment, however, the states must submit programs for proposed highway projects for approval by the Secretary of Transportation (appellant here) before they may obligate apportioned funds. 23 U.S.C. § 105.[1] Approval of a specific program by the Secretary results in a contractual obligation of the Federal Government. 23 U.S.C. § 106(a). Payments to the states are made pursuant to appropriation acts for reimbursement for work performed. The amount appropriated each year may not exceed the amounts provided for in the authorization act, nor may it exceed the funds available in the Highway Trust Fund.

In the instant case, the Secretary has withheld its approval of proposed projects after authorization and apportionment but before any appropriation has been made by Congress.

While an appropriation act, as contrasted to authorization acts, would seem to be mandatory in its effect, the courts have held that even appropriation acts are permissive in nature and do not in themselves impose an affirmative duty to expend the funds. *McKay v. Central Electric Power Cooperative*, 223 F.2d 623, 625 (C.A.D.C. 1955). Historically, there has been considerable support for this construction. For instance, then Senator Truman said in 1943,

"When the Congress appropriates funds it gives the executive branch an *authority* to incur obligations. Certainly none of us hold that we give a mandate to expend the funds appropriated. We expect the funds to be used only where needed, and not in excess of the amount appropriated, to carry out some phase of the law." 89 Cong. Rec. 10362 (emphasis added).

The legislative branch itself pointed out in a Committee Report concerning the 1951 Appropriations Bill, an "appropriation of a given amount for a particular activity constitutes only a ceiling upon the amount which should be expended for that activity." H. Rep. 1797, 81st Cong., 2d Sess., p. 9. As early as 1943 Congress recognized that *authorizing* legislation does not compel the executive branch to obligate or expend highway funds. *See* House Conf. Rep. 677, 78th Cong., 1st Sess., p. 4 (1943) in regard to § 9 of the Rural Post Roads Act of 1943. The fact is that the presidential practice of withholding authorized and appropriated funds

Footnotes at end of article.

runs at least as far back as 1942. Presidents Roosevelt, Truman, Eisenhower, Kennedy, Johnson, and now Nixon have all practiced it to varying degrees. Miller, *Presidential Power to Impound Appropriated Funds: An Exercise in Constitutional Decision Making*, 43 North Carolina Law Rev. 502, 513 (1965). Although this practice is not without its critics,[2] it appears to be an established practice, *Id.*, and as Judge Cardozo once stated, "not lightly to be vacated is the verdict of quiescent years." *Coler v. Corn Exchange Bk.*, 250 N.Y. 136, 164 N.E. 882, 884 (1928). *Cf. Contractors Ass'n of Eastern Pa. v. Secretary of Labor*, 442 F.2d 159, 171 (CA3 1971). By implication the practice has received frequent statutory recognition. An example is the Anti-Deficiency Act, 31 U.S.C. § 665 (c) (1) which provides that "authorizations to create obligations by contract in advance of appropriations shall be so apportioned as to achieve the most effective and *economical* use thereof." (Emphasis added). And 31 U.S.C. § 701(a) (2) of the same Act provides for reversion of unobligated appropriated funds to the fund from which they originally were derived. If Congress expected full expenditure of funds, it obviously would appear unnecessary to include such a provision. It is, therefore, my view that in the absence of specific statutory language to the contrary, Congress has given the Executive branch the power to withhold authorized but unobligated funds from expenditure.[3]

I now turn to the specific statutory language of the Federal-Aid Highway Act to determine whether Congress has provided a specific mandate to spend authorized but unobligated funds. 23 U.S.C. § 101(c) provides:

"*It is the sense of Congress* that under existing law no part of any sums authorized to be appropriated for expenditure upon any Federal-Aid system . . . shall be impounded or withheld from obligation, for purposes and projects as provided in this title, by any officer or employee in the executive branch of the Federal Government, ..." (Emphasis added.)

23 U.S.C. § 101(d) provides in clear mandatory terms:

"*No funds* authorized to be appropriated from the Highway trust fund *shall* be expended by or on behalf of any Federal department, agency, or instrumentality other than the Federal Highway Administration unless . . . specifically authorized . . . from the Highway Trust Fund by Federal-aid highway legislation." (Emphasis added.)

Sections (c) and (d) were added to the Federal-Aid Highway Act in 1968. Pub. L. 90–495, § 15.[4] It is interesting to note that section (d) as originally enacted in 1968 started with the "It is the sense of Congress" phrase also found in section (c). However, when 23 U.S.C. § 101 was amended to its present form in 1970, the phrase "No funds authorized to be appropriated" was substituted for the "sense of Congress" phrase in section (d) but not in section (c). Pub. L. 91–605, § 107. By reenacting § 101(c) without pertinent modification but amending 101(d) Congress implicitly accepted the non-mandatory construction placed on § 101(c) by the Secretary after receiving Attorney General Clark's opinion[5] in 1967. *Cf. National Labor Relations Board v. Gullett Gin Co.*, 340 U.S. 361, 366 (1951). In a similar vein the Circuit Court of Appeals for the District of Columbia said in 1961:

"Approval of an administrative interpretation is not lightly to be laid at the door of Congress; but the evidence of awareness by Congress of the . . . interpretation over a very considerable period, during which Congress considered the legislation several times with no change . . . as administratively interpreted cannot be altogether ignored."

Empire State Highway Transp. Ass'n v. Federal Maritime Bd., 291 F.2d 336, 341 (C.A.D.C. 1961). *Accord, Norwegian Nitrogen Products Co. v. United States*, 288 U.S. 294, 313 (1933).

If Congress intends to mandate to the Executive branch, this should be unambiguously stated in the legislation so the President understands clearly when he has been directed and when he has been given discretionary powers. In this regard, I submit that the phrase "sense of Congress" is only precatory in its effect. The phrase has been the subject of interpretation in two opinions of the United States Attorney General, both construing 15 U.S.C. § 616A. The latest, 42 Op. Att'y Gen. 20 (1965) stated:

"This section, by expressing the 'sense of Congress' that government agencies 'shall' require the exports to be carried exclusively in United States vessels, is not mandatory and does not preclude the Maritime Administration from permitting 50 per cent of the cargoes to be carried in vessels of the recipient country. . . ."

In 1934 the Attorney General found that the "sense of Congress" language indicated that the statutory requirement of 15 U.S.C. 616A was to be carried out "only if feasible to do so." 37 Op. Att'y Gen. 546 (1934).

In view of the legislative history of this and other statutes and because the expression "sense of Congress" connotates a *policy* rather than a *directory* statement, it is my view that the Secretary of Transportation has the power to defer the availability to the states of those funds authorized and apportioned for highway construction which have not become the subject of a contractual obligation on the part of the Federal Government in favor of a state.

I must therefore dissent.

FOOTNOTES

[1] In an attempt to curtail the Executive's practice of withholding apportioned funds under the Federal-Aid Highway Act, the Senate in 1972 approved a bill S. 3939, 92nd Cong., 2d. Sess. (1972), which would eliminate the project-by-project review of the Secretary. It would, in effect, have created a contractual obligation on the Government immediately after funds were apportioned. The Secretary would not then be able to withhold funds by simply not approving proposed projects. *See* H. Rep. 92–1081, 92nd Cong., 2d Sess. The corresponding House bill containing no such provision. H. Rep. 92–1443, 92nd Cong., 2d Sess. The Conference Committee accepted the House version without the proposed Senate provision. Congress then adjourned prior to final action on the 1972 Federal-Aid Highway Act.

[2] *See generally* Boggs, *Executive Impoundment of Congressionally appropriated Funds*, 24. U. Fla. L. Rev. 221 (1972); Church, *Impoundment of Appropriated Funds: The Decline of Congressional Control over Executive Discretion*, 22 Stanford L. Rev. 1240 (1970).

[3] Other legislative history supports this conclusion. On several occasions Bills have been introduced into Congress which would have made it unlawful to withhold moneys appropriated by Congress from being promptly applied for the purpose designated in the Federal-Aid Highway Act. H.R. 11441, 85th Cong. 2d Sess. (1958), H.R. 11541, 85th Cong., 2d Sess. (1958), H.R. 11682, 85th Cong., 2d Sess. (1958), S. 3578, 85th Cong., 2d Sess. (1958), H.R. 1254, 86th Cong., 1st Sess. (1960), S. 4049, 90th Cong. 2d Sess. (1968) (an attempt to exempt the Federal-Aid Highway Act from the 1968 inflationary cuts imposed by Congress), H.R. 1214, 91st Cong., 1st Sess. (1969), S. 3877, 92nd Cong., 2d Sess. (1972). *See* footnote 1 supra for the most recent action by Congress in this respect.

[4] An examination of the legislative history of §§ (c) and (d) reveals a concern by Congress over the practice of the Executive of impounding or withholding apportioned funds. Apparently in response to a 1967 Attorney General opinion, 42 Op. Att'y Gen. 32 (1967), the House passed a bill which would have amended 23 U.S.C. § 104 to include a mandatory spending provision. H. Rep. No. 1584, 90th Cong., 2nd Sess., p. 11–12. Conf. Rep. No. 1799, 90th Cong., 2nd Sess., (1968), U.S. Code Cong. & Admin. News at 3537. The Senate did not recommend a specific amendment but did state its opposition to reductions in funds made available for obligation under the Federal-aid highway program which relate directly to the "planning and design of highway projects, the acquisition of rights-of-way necessary for such projects, and the assistance to those who are dislocated or displaced by highway construction projects." S. Rep. No. 1340, 90th Cong., 2nd Sess., (1968), U.S. Code Cong. & Admin. News at 3501. The Conference Committee failed to accept the mandatory House language and instead adopted the Senate bill which included the "sense of Congress" phrase. H. Rep. 1799, 90th Cong., 2nd Sess., (1968), U.S. Code Cong. & Admin. News at 3537. This resulted in amendments (c) and (d) to 23 U.S.C. § 101. The Conference Report, *Id.*, describes 23 U.S.C. § 101 as the "general declaration of policy" (emphasis added) applicable to Title 23. It is now well established that statements of policy do not add to or alter specific operative provisions of a statute. *Sinclair Refining Co.* v. *Atkinson*, 370 U.S. 195, 202 (1962); 42 Op. Att'y Gen. 32 (1967). Since no provision of the Act gives any state a vested right to the apportioned funds prior to approval by the Secretary, and there is no express mandate to the Secretary to approve proposed projects, it is reasonable to conclude that the Secretary has, in his discretion, the authority to withhold unobligated funds.

[5] DEAR MR. SECRETARY. This is in reply to your letter of February 21, 1967, requesting my opinion as to the legality of a reduction in the amount of Federal aid highway funds which may be obligated during the Fiscal Year ending June 30, 1967.

* * * * *

"An appropriation act thus places an upper and not a lower limit on expenditures. The duty of the President to see that the laws are faithfully executed, under Article II, section 3 of the Constitution, does not require that funds made available must be fully expended. This principle has received statutory recognition in the Anti-Deficiency Act, February 27, 1906, c. 510, sec. 3, 34 Stat. 49 (31 U.S.C. 665(c)), which authorizes the executive branch to effectuate savings of appropriated funds, and in 31 U.S.C. 701, which provides that unexpended appropriated funds shall revert to the Treasury.

"Many factors must be weighed by the Executive in determining the extent to which funds should be expended. Consideration be given not only to legislative authorizations and appropriations but also to such factors as the effect of the authorized expenditures on the national economy and their relation to other programs important to the national welfare.

"A situation analogous to the present one arose in the early 1940's when the economy of the United States shifted first to defense and later to war production. At that time President Franklin Delano Roosevelt directed that projects having a lower priority would have to be postponed or even cancelled in spite of the availability of appropriated funds. In response to complaints about the curtailment by the Bureau of the Budget of certain programs of the Agricultural Marketing Administration, President Roosevelt set forth the powers and responsibilities of the executive branch in this area:

" 'It should, of course, be clearly understood that what you refer to as "the practice of the Bureau [of the Budget] of impounding funds duly appropriated by the Congress" is in fact action by the Chief Executive, and has two purposes. The first purpose is compliance with the Anti-Deficiency Act, which requires

that appropriated funds be so apportioned over the fiscal year as to insure against deficiency spending. * * * Secondly, the apportionment procedure is used as a positive means of reducing expenditures and saving money wherever and whenever such savings appear possible.

" 'While our statutory system of fund apportionment is not a substitute for item or blanket veto power, and should not be used to set aside or nullify the expressed will of Congress, I cannot believe that you or Congress as a whole would take exception to either of these purposes which are common to sound business management everywhere. In other words, the mere fact that Congress, by the appropriation process, has made available specified sums for the various programs and functions of the Government is not a mandate that such funds must be fully expended. Such a premise would take from the Chief Executive every incentive for good management and the practice of commonsense economy. This is particularly true in times of rapid change in general economic conditions and with respect to programs and activities in which exact standards or levels of operation are not and cannot well be prescribed by statute.' " 42 Op. Att'y Gen. 32 (1967).

THE ENERGY CRISIS

Mr. DOMINICK. Mr. President, earlier this month the news media carried a story of enormous significance to our Nation and its people who are only now beginning to feel the relentless grip of the energy crisis. A private consortium, using private funds, announced its intention to proceed with the first commercial oil shale plant in the United States. This development will take place in my home State of Colorado, in the Piceance Basin, which lies northwest of the town of Rifle.

The man chosen to head this trailblazing enterprise is Hollis M. Dole, until recently the Assistant Secretary of the Interior for Mineral Resources, and a native of Paonia, Colo. Hollis Dole brings to his challenging new assignment a rich background in geology, mining, and public administration. I have had the pleasure of working closely with him on the Committee on Labor and Public Welfare on mine health and safety and I have been astonished time and again by his mastery of the subject under discussion, and deeply impressed by his abiding concern for the mine worker and his well being. He was always an impressive witness for the Department of Interior's aims and programs.

In a time of polarized attitudes between the need for energy resource development and the need to protect our environment, Hollis Dole campaigned resolutely for both. He was one of the earliest, and strongest spokesmen in the administration for the development of our mineral treasures; and he was one of the earliest, and strongest advocates of incorporating the study of environmental protection in the curricula of our mineral science colleges.

My State is fortunate that the new venture to unlock the desperately needed oil of the Green River Shales will be directed by a man who sees so clearly the essential connection between the two imperatives of development and conservation. As he has said time and again, these two values do not constitute an either/or proposition; we must have both; and we can have both.

Mr. President, I have here a copy of the Department of the Interior news release which carried the announcement of Hollis Dole's new venture in turning the rich resources of the earth to the beneficial use of the American people. I ask unanimous consent that it be inserted in its entirety in the RECORD.

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

HOLLIS M. DOLE LEAVES INTERIOR DEPARTMENT TO HEAD OIL SHALE PROJECT

Hollis M. Dole, Assistant Secretary of Interior for Mineral Resources, will depart March 12 to become Senior Executive in Chicago of the jointly-sponsored oil shale development program of the Atlantic Richfield Company and The Oil Shale Corporation, with headquarters in Denver, Colorado. He has served in the Interior post since March 21, 1969.

In parting Dole paid high tribute to the Nixon Administration and to his associates in the Department. "I have been honored," he said, "to serve one of the truly great presidents of our nation's history. I have been privileged to enjoy the help and support of the finest group of men and women anywhere. And I have been warmed by the friendship of the two splendid men under whose leadership it was my pleasure to serve—Secretary Morton and Secretaray Hickel." Secretary Morton praised Dole as "the one man who has done more than anyone else in the nation to alert us all to the energy crisis we are now facing."

During his tenure Dole effected significant organizational changes designed to make the agencies under his control more responsive to problems related to mine health and safety and environmental protection. His vigorous enforcement of the Coal Mine Health and Safety Act is credited with the sharply lowered fatality rate for coal mines, which dropped to the lowest level in history in 1971, and to an even lower rate in 1972. He has been a strong advocate of formal instruction in both mine health and safety, and environmental protection as required credits for degree candidates in the mineral sciences.

An outspoken contender for development of the nation's mineral and energy resources, Dole was instrumental in securing the passage of the Mining and Minerals Policy Act and the Geothermal Steam Act. He was also responsible for carrying out significant portions of President Nixon's Clean Energy program, including an expanded effort to convert coal to gaseous and liquid fuels; acceleration of oil and gas leasing on the Outer Continental Shelf, and the development of programs for leasing oil shale and geothermal resources.

A geologist by profession, Dole has strongly supported efforts to increase the number of mining engineers and upgrade the capabilities of mineral science colleges through programs of Federal Assistance. He has been a vigorous advocate of legislation designed to limit adverse environmental effects from both surface and underground mining, and an equally vigorous critic of the actions of extremist groups which threaten continued supplies of energy and minerals.

The Colony development oil shale program, which Dole will head, will process shale from privately-held lands in Western Colorado.

USE OF GOVERNMENT AIRPLANES DURING NATIONAL ELECTION CAMPAIGNS

Mr. PELL. Mr. President, yesterday it was disclosed that the White House has refused to provide to the Congress information on use of Government-owned, taxpayer-financed airplanes during the national election campaign period last fall.

The White House advised the General Accounting Office that the information requested for the use of the Congress was "personal in nature and thus not the proper subject of congressional inquiry."

Mr. President, in my view this is an outrageous abuse of the doctrine of "executive privilege." I, for one, believe that there are indeed occasions when the President can properly refuse to provide information to the Congress. If, for example, the Congress were to inquire into how the President spent his salary, I would agree that information is "personal in nature" and not a proper subject for congressional inquiry.

However, in this case we are not talking about the President's personal business; we are talking about flights by aircraft of the 89th Military Airlift Wing at Andrews Air Force Base. The President is authorized to use aircraft from the wing for official business, but the 89th Airlift Wing is not the President's personal property, not his personal air force. It belongs to the taxpayers of this country.

And the taxpayers of this country have a right to know whether their tax dollars are being properly used. The Congress has a responsibility to see that tax dollars are not improperly used or wasted.

To say that records of flights by the 89th Military Airlift Wing are "personal in nature" is nonsense. The use of executive privilege to deny this information to the Congress raised one big question—"What is the White House trying to hide?"

THE FATE OF THOSE MISSING IN ACTION IN NORTH VIETNAM

Mr. WEICKER. Mr. President, recently I received a resolution of the General Assembly of the State of Connecticut.

This important resolution, "urging the President and Congress to investigate the release of prisoners of war and the fate of those missing in action," expresses clearly the concern of all Americans for an early and complete accounting of our MIA's suffered in the Vietnam conflict. Therefore, I commend this resolution to the serious consideration of my distinguished colleagues in the Senate as we take the necessary action to truly end our military involvement in Southeast Asia.

Mr. President, I ask unanimous consent that the resolution of the Connecticut General Assembly be inserted at this point in the RECORD.

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

H.J. RES. 116

Resolution urging the President and Congress to investigate the release of prisoners of war and the fate of those missing in action in Vietnam

Resolved by this House:

Whereas, the citizens of Connecticut join with the rest of our nation in rejoicing at the cease-fire in Vietnam and at the return of so many of our valiant servicemen who have suffered imprisonment at the hands of the North Vietnamese and the Viet Cong; and

Whereas, even while so rejoicing, we are disturbed to see that only one private first class has been returned to the states to date and that no men of lesser rank have been returned; and

Whereas, we are concerned equally with the fate of our captured ground troops as we were with those officers who have been reunited with their families; and

Whereas, we share also the burden of our fellow citizens whose husbands, sons, brothers and fathers are among those missing in action, whose fate is still unknown.

Now, therefore, *be it resolved,* That this General Assembly urge the President and the Congress of the United States to take such measures as will reveal the fate of all these loyal servicemen and expedite their return; and

Be it further resolved, That the clerks of the House and Senate cause a copy of this resolution to be sent to the President of the United States, the President Pro Tempore of the United States Senate, the Speaker of the United States House of Representatives and the Senators and Congressmen from Connecticut.

THE DANGERS IN THE USE OF MARIJUANA

Mr. FONG. Mr. President, a good friend of mine of longstanding recently spoke on a matter of great concern to many of us—the use of marijuana and the need to fully inform the public on the dangers involved.

An excellent report on the talk by my friend, Mr. Sam Pryor of Hawaii, was written for the Maui News by reporter Jeanne B. Johnson.

Sam Pryor, in addition to being a retired vice president of Pan American World Airways, is a recognized authority on narcotics and drugs.

I ask unanimous consent that the news article by Jeanne Johnson be printed in the RECORD so that others also may benefit from the important information Sam Pryor has to give.

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

DRUGS LEAD GOOD BOYS TO RUIN—EVEN DEATH: PRYOR NOTES

(By Jeanne B. Johnson)

"The files of the Bureau of Narcotics are punctuated with murders and atrocities committed under the influence of marijuana," Samuel F. Pryor of Kipahulu and Greenwich, Connecticut, told members of the Maui Woman's Club at their meeting last week.

Pryor, retired vice president of Pan American World Airways, can speak with authority on the subject of narcotics and drugs. He is a graduate of the United States Treasury Narcotic Agents School in Washington and is an adviser to the Federal Bureau of Narcotics and Dangerous Drugs, as well as having been a delegate to Interpol (the International Criminal Police Organization) for some nine years.

"People cause wars, people cause pollution, and people cause self-destruction, and self-destruction is what I am going to talk to you about today," he began. He explained that he had first become interested "many years ago," because as a Director of the Boy's Club of America, he "saw what was happening to so many good boys because of lacking something interesting to do and lack of guidance turned them to experimenting with narcotics, leading them to ruin—even death.

As a privilege of being able to travel extensively abroad because of his position with the airline, he saw many of the ruins of ancient cities—each of which "in its proper time, stood at the peak of "achievement and accomplishment." Pondering over these ruins caused him to wonder what had caused their downfall.

"At what time in the history of these lost civilizations did the parents begin to neglect the guidance of their children through not educating them to the facts and the dangers of life. At what time did their school teachers fail to alert the pupils to the facts of dangerous narcotics? At what time did their spiritual leaders fail to guide them?

"These thoughts caused me to look for facts. Could this happen to our Country? Are we going the way these other civilizations have gone?"

DRUGS DANGEROUS

Pryor said he was not going to discuss the dangers of heroin and LSD, because "even the most stupid individual, young or old, knows these drugs are dangerous . . . instead, let's talk about the drug we hear so much about also damned with the inaccuracy of many of the articles and reports by the news media. What is it? Let's hear what the United Nations says about marijuana:

" 'The products of the plant Cannabis Sativa L. have been used by millions of people as an intoxicant over the last four or five thousand years. The hemp plant or the crude drug derived from it and folk preparations of the hemp drug are known under almost 200 different names. The best known are Indian hemp, hashish, marijuana and bhang.

" 'Cannabis has become, from the medical point of view, an obsolete remedy. It has therefore been recommended that its use be discontinued in medical practice . . . the possible antibiotic properties of the resinous parts of the plant have recently been studied in some countries, but the World Health Organization has concluded that the case has not been proven for extracting useful drugs from cannabis.' "

Turning to marijuana, specifically, the United Nations report quotes Dr. Haislip, attorney adviser to the Bureau of Narcotics concerning "marijuana and its relationship to crime and insanity."

Haislip said: "The effects of marijuana on the activity of the brain are undoubtedly the most profound and constitute the greatest source of danger to the user and the persons around him. Recent experiments on human subjects have led to the conclusion that sufficient doses of marijuana can cause psychotic reactions in almost any individual. It is in this manner that marijuana has earned its reputation for inducing criminal behavior."

MENTAL CONFUSION

It was pointed out in the Haislip report and quoted by Pryor that "excessive indulgence" in marijuana "is apt to produce in healthy individuals, and more so in susceptible individuals, mental confusion which may lead to delusions with restlessness and disordered movements. Intellectual impairment as well as disorientation may show itself in various ways, such as weakening of moral sense, habit of telling lies, prostitution, theft, pilfering, sex perversions . . . (and) . . . sometimes indulgence may release subconscious impulses and lead to violent crimes."

Pryor called attention to the fact that "the files of the Bureau of Narcotics are punctuated with murders and atrocities committed under the influence of marijuana.

He said that what immediately brought the subject of marijuana to his attention as a pertinent topic for his talk was that "last week one of our leading newspapers here had an editorial on legalizing marijuana saying that it should be legalized. I couldn't believe it. I couldn't believe a member of your Legislature intelligent enough to be elected and could put in a bill for legalization. They tried in California this last year and it was turned down by a tremendous majority, although the editorial failed to mention that."

Pryor said he wrote a letter to the editor of the paper, which was published in the paper, and "they answered with four columns on 'The Law and Marijuana' " saying it should be legalized. I had sent the paper material which I am going to show you, but there was no mention of that side of the story.

He pointed out that the paper had called for a poll as to whether the reader was "for" or "against" legalization of marijuana, but that while it had carried four columns citing the reasons "for" legalization they had carried "non of the material I sent them," and came out with another editorial for legalization, saying that the poll favored it.

"Now, how can a poll be a fair poll if four columns are put in justifying legalization and not one word on the other side except my original letter?"

YOUNG MAN MURDERED

He told the women that the marijuana situation in the United States had come very close to his own family during the past week, with the receipt of a letter about the grandson of a very close friend. The young man, of whom Pryor was very fond, was "murdered in Beacon Hill right outside his apartment house en route to mail a letter. This came close to home, but it is going on all over the United States . . . the two boys who murdered him were stoned on marijuana."

At the latest meeting of Interpol, held in Frankfort, Germany last September, representatives of 114 countries all wanted to serve on the Drug Abuse Committee. "It's not only the United States, but other countries throughout the world—even the 'bad' countries which have allowed so much to go through their country to be sold to the United States—who are worried about their youth. They have changed and are cooperating with all the rest of the countries. The first resolution passed concerned the dangers of marijuana, and it was passed unanimously.

The resolution pointed out that "the consumption of marijuana and its derivatives is growing rapidly and reaching epidemic proportions in some countries," and that "certain propaganda seeks to persuade the general public that such consumption is not harmful, and considering that the last scientific research indicates that on the contrary its consumption is indeed very dangerous, and noting that detailed observations by police forces indicates that the use of marijuana and its derivatives very often leads to the use of more dangerous drugs," the Interpol Assembly went on record to recommend "That measures designed to eliminate the illegal cultivation of cannabis (marijuana) be strengthened (and) large scale publicity campaigns be launched and relaunched aimed not only at young people, but also at parents and the general public designed to show the direct dangers of the consumption of cannabis and its derivatives."

Referring to the part of the resolution which pointed out that certain propaganda seeks to persuade the general public that consumption of marijuana is not harmful, he called attention to the fact that "the dangers of marijuana have been cited by every member of the United Nations, and I don't know how anyone can stand up against what those countries say about marijuana and what the 114 countries of Interpol say."

He stressed education—education as to the dangers of marijuana—as the remedy for the present situation, and pointed out that law enforcement officers do not enjoy throwing the youth of the country in jail for committing no other offense than possessing marijuana.

"I think parents—particularly mothers and grandparents," hold the key to the situation,

and "have a tremendous responsibility to educate these young people on facts, he concluded, emphasizing that groups such as the Maui Woman's Club could play a major role in this respect, not only with their own young people, but in public education and organizing to fight the dangers of marijuana.

NORTH CENTRAL AIRLINES RECORD OF SERVICE

Mr. McGOVERN. Mr. President, the United States is well aware of the services offered by major airlines both for travel within the country and abroad. It is less aware of the contribution made by smaller regional lines which perform perhaps even a greater service in terms of their within-region or feeder operations.

North Central Airlines, which is the main air carrier for South Dakota, is one of these. It operates more flights in subzero temperatures than any other in the world. It has the shortest average stage distance and the shortest passenger trip distance of any local line in the country. All these factors involve extraordinary operating costs. Yet, North Central Airlines has shown a profit in 18 of the last 19 years.

I ask unanimous consent that this encouraging story about an exemplary airline, published in the March issue of Air Transport World, be printed in the RECORD.

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

HOW TO RUN AN AIRLINE . . . PROFIT STYLE; NORTH CENTRAL SHOWS THE WAY

(By Joseph S. Murphy)

Late last month, North Central Airlines revealed its preliminary unaudited results for 1972: a $7.5-million profit on $120 million in revenues, the tops for the U.S. local airline industry and a record for North Central itself.

At the same time North Central marked the 25th anniversary of its humble origin as a division of Four Wheel Drive Co. in Clintonville, Wisc. And the tone of the 1972 fiscal performance is typical of the phenomenal financial record that chairman Hal Carr and his management have written over that quarter-century period.

For an airline to show a profit in 18 of the last 19 years, one would expect it to be blessed with a few operating advantages here and there to boost its position. One would think so, but that's not the case at North Central. If anything, the opposite is true.

Not only does it operate more flights in costly subzero temperatures than any other airline in the world but it also has the shortest average stage distance and the shortest passenger trip distance of any U.S. local.

The real secret to North Central's success lies in knowing how to run a very lean, tight, cost-conscious airline, says Hal Carr. And if anyone, knows what makes North Central tick, it's Hal Carr.

Actually, Carr seems synonymous with the airline's success. He was there as executive up when it all began in 1948. After two years' of start-up losses and two years of profit, he left to join McKinsey & Co., management consultants.

The next two years, in Carr's absence, North Central dove into the red with $100,000 losses in both 1952 and 1953. In 1954, when he was lured back to run the airline, it already had amassed a $70,000 loss, but Carr turned that around to an $80,000 profit before the year was over.

On the eve of his return, Carr recalls, CAB had told North Central's management that no U.S. airline had ever gone bankrupt, but that it looked like they were about to end that glorious record. CAB also had told North Central that the carrier had exhausted every bit of assistance it could expect from the government to make up for its own managerial deficiencies.

Since 1954, Hal Carr and North Central have shown a profit in every year except 1969—when a major route and equipment expansion combined with a traffic dip to take the airline's results into the red.

From a $700,000 operation in 1948, when 112 employees and a fleet of three Lockheed 10As carried 11,000 passengers. North Central has boomed into a $120-million operation with 3200 employees and a fleet of 16 DC–9 jets and 33 Convair 580 turboprops.

Over the 25-year span since 1948, the airline has carried 33 million passengers some 6.5 billion revenue passenger-miles and has shown a profit of $14.2 million on total operating revenues of $761 million.

Almost throughout the past 19 years, it has been a case of "North Central and somebody else" making a profit among U.S. locals. In 1971 it was North Central and Ozark, the year before NOR and Allegheny. In 1968, North Central was all alone with a $70,000 profit while the rest of the local airline industry was losing $28 million.

If one adds up the retained earnings of all of the U.S. locals, the North Central record stands out. At the end of 1971 it was the only local with a positive retained earnings record. Others showed deficits ranging from $660,000 for Ozark up to $23.5 million for Frontier.

Hal Carr has worked well from the beginning with his board of directors, and in all of his memory he can't recall a board vote that hasn't been unanimous. He tells the board that when times are good North Central will be among the leaders in profit and in bad times North Central will lose the least.

Since Art Mueller passed away in 1966, North Central has become the most publicly owned airline of all locals, with upwards of 34,000 individual stockholders. Carr himself is the biggest single shareholder at about 3%, and the airline has no single "rich uncle," as he calls it, like most other locals.

He operates North Central from a pretty straightforward management philosophy. Everyone in top management has a backup man who can step in at a moment's notice to do the job. He himself has Bernard (Bud) Sweet, now president, who runs the day-to-day airline business while Carr concentrates on policy matters and long-range planning.

How does an airline with an outstanding past financial record look at the airline scene today? How will North Central do in 1973?

It all depends on three or four different factors, notes Bud Sweet. If the economy holds up throughout 1973 as all of the forecasters predict, air traffic should show a growth rate twice the rate of the gross national product growth.

Then there's Phase III. If voluntary controls work, that will be good. Phase II helped the airlines, which earlier were being hit by labor cost rises double those experienced in 1972. Most unions recently have held to one-year contracts in hopes that controls would end, and North Central itself has four new contracts coming up for renewal in the balance of this year. If restraint prevails, the outlook will be good.

Both Carr and Sweet have no doubts about the need for a fare surcharge to offset the new security rules. The proposed $1 per passenger breaks down to 93¢ plus tax. When prorated on interline tickets with the rest of the fare, this would leave just about half of the 93¢ with North Central, and that's about what the carrier needs to cover its costs. It will cost $2 million at North Central alone to do the security job.

Hal Carr thinks the CAB's local airline route-strengthening program has been one of the most enlightened, far-sighted and successful projects ever undertaken by the Board, and states flatly that subsidy today would be fantastically higher without it.

Although the program slowed down when the CAB declared a moratorium on new route authority during the recent recession, Carr is hopeful that renewed financial health among the trunks will encourage the Board to resume the strengthening program.

North Central got its biggest break in route-strengthening with the award of the Milwaukee-New York nonstop. It began the service in September of 1970 and traffic is still building. United which began at the same time and with more frequencies than North Central, cut its service from four flights daily to two, then shifted from LaGuardia to Newark, and finally dropped out of the market.

North Central uses the route to feed traffic on one-plane services from points west and northwest through Milwaukee to New York. It has the advantage of a half-filled airplane on arrival in Milwaukee and thus doesn't depend solely on the fruits of Milwaukee-New York traffic.

North Central is proposing similar treatment of its bids in other route cases. In the Detroit-Atlanta and Cincinnati-Atlanta cases, it proposes a "light touch of competition" as opposed to certifying a full-fledged, big trunk competitor in a market now served exclusively by one airline.

North Central's approach is to schedule its feeder through-flights at times when service is not now available. In its Detroit-Boston and Detroit-New York bids, it would feed traffic from the west and northwest to these destinations, rather than trying to divert traffic from existing services.

The regionals have one advantage competing in such markets: their single-class jets offer a service superior to trunk airline coach service. Some traveling businessmen prefer the regional because their company rules preclude first-class travel and the one-class service averts the prospect of their being embarrassed by meeting competitors or customers in first-class compartments while they themselves are on their way to the back of the airplane.

In addition to its bids in the Atlanta, Boston and New York markets, North Central also seeks Milwaukee-Denver authority and extension of its Detroit-Toronto service to Montreal. The important thing, says Dave Moran, vp-traffic and sales, is that local airline route-strengthening must be continued in order to reduce future subsidy need.

As a measure of how the New York route has helped North Central, Hal Carr points out that break even on that flight is about 32 passengers on a 100-passenger DC–9. North Central's year-round load factor is 57 passengers, meaning that it gets about 8¢ a mile from 25 passengers above break even over the 738-mile segment—a sizeable contribution in offsetting subsidy need.

Although this route has proven to be one of the better awards to locals, North Central still trails other locals in route-strengthening benefits. In 1968, for example, it had an average length of hop of only 99.6 miles, compared to 146.1 miles for Allegheny. Since then, Allegheny has been strengthened to an average of 211 miles in 1972, a 44% improvement, while North Central's average improved only 30% to 130 miles. In average passenger trip distance improvement, North Central comes out about equal to Allegheny, rising from 187 to 232 miles while Allegheny rose from 245 to 300 miles.

One other aspect of North Central's success in which Carr and Sweet take pride is their equipment decisions. Carr says the worst mistake an airline can make is to buy the wrong airplane, noting that more than one local has gone out of business for that reason. Therefore, North Central puts great emphasis on its equipment decisions.

Carr recalls that the only big problem experienced in the past came when the technical side of North Central favored the Rolls-Royce Convair 600, but flight operations wanted the Allison-powered 580. The latter prevailed.

The 580 has turned out to be a winner. North Central now has 33 and expects to fly them until 1978. This year it will begin substituting DC–9s for some 580 services where traffic densities have grown to justify the 100-passenger jet in place of the 48-passenger turboprop. Thus, the first 580s may be retired from the fleet this year.

Instead of the present 33–16 ratio of 580s to DC–9s, the trend will be toward reversing these numbers over the next few years. North Central recently bought, from Greyhound Leasing, two DC–9s operated by the bankrupt West German charter airline Atlantis, and will get three new DC–9s from Douglas this year to raise the number to 19 by year-end.

Carr feels that the twin DC–10 might well be the next new jet type that North Central buys, not as a full-fleet DC–9 replacement but perhaps a fleet of five to handle certain high-density segments on which a 100-passenger capacity will be insufficient.

Carr also sees a future need for a 50-to-60-passenger replacement for the 580, when and if a manufacturer comes up with one that will do the job. In the meantime. North Central won't do badly replacing 580s with DC–9s. The jet shows a maintenance cost of 28.9¢ per mile versus 38.3¢ for the 580, and its dispatch reliability is almost identical. The delay rate for mechanical causes on the DC–9 is 1.39%, against 1.34% for the 580.

North Central maintains both DC–9s and 580s on a progressive schedule under which an aircraft is never out of service for scheduled maintenance for more than eight hours. The airline recently lost its veteran technical vp, Les Keely, to Frontier Airlines; his successor, Robert Gren, is now developing the next stage of computerized maintenance administration, which will include in-flight monitoring of systems to better predict the need for maintenance before a failure occurs.

On the sales side, North Central in the past has been predominantly a business-traveler-oriented airline, with roughly 80% business travelers and 20% pleasure. Now it is putting a major new effort into expanding pleasure markets, posing itself as the outdoorsman airline with packages for fishing, hunting, canoeing in Canada and, coming next fall, big ski packages. It has engaged pro ski racer Jake Hoeschler as its advisor on the sport and plans to conduct ski seminars this fall.

A good example of how North Central coped with the recent recession is in its control of employe headcount. From the end of 1969 through 1972, it held employment increases to only 1.3% while passengers rose 35% in numbers and revenues climbed 75%.

Computerized reservations illustrate the automation that permits this kind of expansion to be handled by the same force. Had North Central still had manual reservations, it would have had to hire 225 additional people to cope with recent traffic growth. Instead, it not only needed zero staff increase, but has managed to sell about $300,000 in computer services to 50 local accounts to help get better utilization of the computer staff.

Over the past 25 years, North Central has grown at an average rate of 16% per year. Looking ahead another 15 years, Hal Carr sees a 10%-per-year growth to an airline with revenues approaching $500 million annually.

And he makes no bones about North Central's ambitions. It doesn's aspire to become a trunk airline; it is satisfied to remain a regional airline and to serve small communities as it has in the past.

He also feels that big manufacturing corporations sell goods to the U.S. government and get paid for their wares. By the same token the U.S. locals are selling air service to small communities and should continue to get paid for it.

North Central feels the class rate system has proven far superior to all former approaches to local airline subsidy, and favors the idea that the class rate now in effect should prevail until a new one is developed and adopted by CAB. This eliminates the undesirable open rate situation that destroys an airline's ability to plan its operation.

Whatever the future of subsidy, route-strengthening, or the regional airlines for that matter, it's a good bet that Hal Carr and North Central Airlines will emerge as leaders in profit-management. It's just as good a bet that if all of the airlines of the world were managed the way North Central is, the airline industry today would be making a lot more money.

AN APPRAISAL OF TELEVISION PROGRAMING

Mr. BARTLETT. Mr. President, I ask unanimous consent that the attached resolution, a thoughtful appraisal of television programing passed by the Oklahoma Legislature, be entered in full in the RECORD.

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

HOUSE CONCURRENT RESOLUTION No. 1019

A concurrent resolution relating to content of television programs; expressing the sense of the legislature that standards of propriety should be improved to reflect less explicit matters of sex, violence and profanity of language; directing that copies of this resolution be given to each member of the Oklahoma Congressional Delegation and to the Federal Communications Commission; and requesting that each member of the Oklahoma Congressional Delegation urge the Federal Communications Commission to encourage the television networks to require compliance by television programmers in maintaining higher standards of morality in television programs

Whereas, commercial television has become an important part of the lives of Americans, many of whom spend a significant portion of time viewing what is presented by the media; and

Whereas, commercial television has greatly benefited mankind, not only entertaining but informing and edifying by employing the marvels of technology to communicate such historic events as man's exploration of the moon and the visit of an American President to Communist China; and

Whereas, the unparalleled impact of commercial television has the power not only to depict traditional social and cultural manners but also to influence and change them; and

Whereas, there has been a marked shift in the recent past toward more explicit programming by the networks, especially in matters involving sex, violence and profanity; and

Whereas, the right to broadcast over assigned cycles and frequencies is a privilege granted certain organizations in the electronic media on behalf of the entire citizenry; and

Whereas, Americans who do not countenance profligate morality, the use of profane language or ever-heightening levels of violence as a form of entertainment are finding themselves increasingly offended and may, if the trend continues, become effectively deprived of their right to watch substantial portions of commercial television programming.

Now, therefore, be it resolved by the House of Representatives of the 1st session of the 34th Oklahoma Legislature, the Senate concurring therein:

Section 1. The sense of the Legislature is hereby expressed that the nation's commercial television networks and their affiliates should abandon a programming policy, or laxness of control, that depicts profligated morality, the use of profane language and ever-heightening levels of violence as entertainment, and that they return to a practice of abiding by the standards of taste and propriety that prevailed on television screens as recently as two years ago.

Section 2. A copy of this Resolution is to be distributed to each member of the Oklahoma Congressional Delegation and the Federal Communications Commission.

Section 3. The Federal Communications Commission is to be urged by each member of the Oklahoma Congressional Delegation to encourage the nation's television networks to require television programmers to maintain higher standards of morality, taste and propriety in television programs.

Adopted by the House of Representatives the 7th day of March, 1973.

Adopted by the Senate the 13th day of March, 1973.

CONGRESS AND THE PRESIDENCY

Mr. HARTKE. Mr. President, in the opening days of the 93d Congress many issues have already been raised and discussed. But among these issues we are at this moment facing one which makes all others appear insignificant. That issue is the question of the role of the Congress and its relationship with the executive branch of Government.

In the face of a President who is determined to make the Congress subservient to his will, Congress must determine whether it will be a mere ornament of Government—a passive observer of the decline of our Republic—or an active participant in the reconstruction and rescue of our land from a President determined to debase the Constitution and the original principles upon which our Nation was founded. More specifically, the issue is the impoundment by the executive branch of billions of dollars of funds duly appropriated by the Congress.

The Constitution is clear. All legislative power is vested in the Congress, including the power to spend money. Article I, section 9, of the Constitution provides that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." Thus, when Congress authorizes or appropriates money must a President spend it? I say the Constitution demands it, but the President says "No."

Many justifications—both legal and economic—have been propounded by the administration in support of its actions. It is true that over the years laws have been passed by the Congress to give the President some discretion in handling congressional appropriations.

The Antideficiency Acts of 1905 and 1906 permitted the Chief Executive to set aside appropriations, because of "some extraordinary emergency or unusual circumstances." In 1950, the President was granted further power to with-

hold reserves to provide for contingencies or to make savings when circumstances changed after funds were voted by Congress.

There have been some occasions in recent history when Presidents have gone beyond these statutory limitations concerning impoundment but most of these cases involved funds for national defense, an area where the Executive has widely inherent powers. In 1942, President Roosevelt ordered the Secretary of War to establish monetary reserves by the deferment of construction funds not essential to the war effort. In 1949, President Truman impounded funds appropriated for expanding the Air Forces. In 1959, President Eisenhower impounded funds for initial procurement of missile hardware. In 1967, President Johnson reduced the obligations under the highway trust fund and a variety of domestic programs.

As stated, the vast majority of these precedents involved funds for the national defense. In the first major legal confrontation over the President's alleged right to impound funds, Missouri officials went into court to stop the Nixon administration from illegally delaying payments of Federal highway funds to the States. Myself and the great majority of the Senate committee chairmen, Senate Majority Leader MIKE MANSFIELD, and Ralph Nader, have filed a friend-of-the-court brief in the Missouri case.

At the Federal district court level, the Congress, the people, you and I won. The district court ruled that the Secretary of Transportation does not have the power to impound Federal highway funds indiscriminately and that Missouri was entitled to highway moneys as provided in the statutory language of the 1956 law that set up the Federal highway trust fund. Federal District Court Judge Becker found that impoundment of those funds apportioned to Missouri caused "great and incalculable injury—because of continuing inflation of highway costs and such impoundment interrupted the efficient obligation of those funds." The case is presently being appealed to a higher court.

I believe the Missouri decision, if upheld, my well represent a breakthrough in the effort to reestablish the power and prerogatives of Congress over the Federal pursue strings. Not only may the Missouri case manage to spur additional litigation to free almost $2.5 billion in highway trust funds, but it may well pave the way for a true constitutional test of the issue of impoundment, an area where the President's power as Commander in Chief of the Armed Forces is quite broad.

But President Nixon has gone further than any of his predecessors. He has claimed a right to impound—both to manage the economy and to reject programs or portions of programs he personally feels are ill-advised. While past Presidents have shifted funds for one defense item to another they have rarely attempted to completely control domestic programs.

The administration, to support its position on impoundment, has relied on a number of arguments, most forcefully on the constitutional provision that the President "take care that the laws be faithfully executed." Furthermore, the view at the White House is that Congress has already tacitly recognized the President's right to impound funds. According to their view, Congress did so last October while enacting a bill to raise the national debt ceiling. The bill contained a provision requiring the President to provide Congress promptly with full information on impounded funds. The shortsighted view of the administration is that Congress thus conceded that funds could be impounded, subject only to notification of the legislative branch of such action. Late last month, the new Director of the Office of Management and Budget, Roy Ash, stated that the President's refusal to spend appropriations was consistent with his "constitutional duties." Recently, newly appointed Deputy Attorney General Joseph Sneed, presented the first detailed rationale for the President's refusal to spend almost $12 billion appropriated by the Congress. Sneed contended that if appropriation bills appear to conflict with congressional mandates limiting the national debt, curtailing inflation or seeking full employment, the President was empowered to impound. He also stated boldly that the President's powers allowed him to abolish programs by withholding their total appropriations.

The congressional revulsion at monarchical defiance was strong and swift. One House committee chairman said that he had been in Congress under seven Presidents, both Republicans and Democrats, and that never during this 44-year period have we been closer to one man rule. Senator EDMUND MUSKIE, strongly provoked by the arrogance of the administration's destruction of New Deal, New Frontier, and Great Society programs, talked of possible impeachment. Senator SAM ERVIN called it nothing short of a "constitutional crisis."

The prevalent congressional view was, perhaps, best expressed by a man highly praised by the President. Associate Justice William Rehnquist, in 1969, while serving as an Assistant Attorney General, wrote in a memorandum to the President:

> With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that the existence of such a broad power is supported by neither reason nor precedent.

Congressional authority in this field is based on the Constitution. Under the Constitution we find that all legislative power is vested in the Congress, including the power to appropriate money—article I, section 9, provides that "no money shall be drawn from the Treasury but in consequence of appropriations made by law." As one scholar, Leonard White, said in his book, "The Federalists:"

> The Founding Fathers took the utmost care—to insure that public funds would be legally expended, to prevent either misapplication or embezzlement, and to guarantee that the immediate respresentatives of the people would bear the responsibility for determining how much money should be provided, the sources from which it should be derived, and the purposes to which it would be applied.

The President, on the other hand, is given no role in legislation save for the power provided in article II, section 3 to recommend "such measures as he shall judge necessary and expedient," and the power granted him under article I, section 7, to veto measures passed by the Congress, subject to being overridden by a two-thirds vote of both Houses. The President does have the clear responsibility to "take care that the laws be faithfully executed," but it is a tortured view of the Constitution to interpret article II, section 3 to infer that the President is given discretion to impound funds.

Historical evidence clearly shows that the Founding Fathers intended that the President faithfully execute all laws passed by the Congress irrespective of any personal, political, or philosophical views he might have. The President has no authority under the Constitution to decide which laws will be executed or to what extent they will be enforced. By refusing to follow his constitutional mandate a "law and order" man becomes a "law breaker."

Furthermore, it is evident that the Founding Fathers intended to limit the veto power of the President. By the impounding process the President is not only able to veto measures absolutely as he is now doing in the case of a large number of domestic programs, but the use of impoundment enables the President to effect an item or line veto. Such power clearly is prohibited by the Constitution and contrary to the views of our Founding Fathers. The Constitution provides that the President must accept or reject bills in their entirety. By impounding funds the President is able to modify, reshape, or nullify completely laws passed by the legislative branch, thereby exercising legislative power through Executive fiat and arrogance. The impoundment of funds thus seriously jeopardizes the separation of powers doctrine and places Congress—the representative of the people—in a subservient position.

Accordingly Senator ERVIN and I cosponsored a bill to protect the legislative function by requiring the President to notify the Congress whenever he impounds funds, terminates or authorizes the impounding or termination of a Federal program, and to require that the President shall cease such impounding at the expiration of 60 calendar days unless the Congress approves his action by concurrent resolution.

However, in the last few days the autocratic air of the administration's witnesses in testifying before Senator ERVIN's Subcommittee on Separation of Powers has caused him to move toward an outright ban prohibiting the impoundment of funds. I will support that strengthened bill in the hope that it will restore the Congress to the role of an equal partner in guiding the growth of our Nation.

I also cosponsored with Senator BELLMON, of Oklahoma, legislation which would prohibit the executive branch of Government from impounding funds

from the highway trust fund. Senator BELLMON, like myself, believes that the Senate must act to end stop-and-go financing which causes serious periodic unemployment for thousands of construction workers and which by intermittent funding has greatly increased the cost of highway building. The impoundment of highway funds has resulted in construction delays, increased cost to the interstate system and represents a serious encroachment by the Executive upon the power of the legislative branch.

There are, however, inherent dangers in the success of the Bellmon bill or in the success of numerous pending court suits seeking to release the moneys withheld from obligation for our Nation's highways. There is, most assuredly, a substantial need for new roads and highways in the Nation's rural areas. Public transportation in America is in a state of decline. Scores of communities have in recent years lost their main sources of transportation. Rail service in many localities has decreased while at the same time bus operators have cut back services on many marginal routes where they say relatively light patronage and rising costs make the service uneconomical. Airlines also are decreasing service in many areas contending that serving low-volume markets is uneconomical.

In the past, Federal policy has failed to deal adequately with transportation problems. Development of the 42,500-mile Federal interstate highway system and other road projects have put new roads into many sections of our State and other areas of the country, easing their isolation and stimulating economic growth. Vast areas of Indiana and other areas in the Nation are still plagued by poor roads.

The inherent danger I spoke of in the release of impounded funds is this. If the huge amount of funds now impounded from obligation under the Highway Trust Fund Act are freed, there will be a strong impetus to breaking open the trust fund to a broad range of transportation projects, most notable urban mass transit projects. A recent Harris survey revealed the general attitude of the American public in this regard. It found 50 percent of America's citizens opposed to increasing funds to improve highways while only 37 percent favor increased spending. Senator PROXMIRE has proposed cutting $1 billion dollars a year from highway funds as part of a reordering of priorities. That is not the answer.

The appropriate response in twofold: Both to increase highway funds for States like Indiana and increase mass transit funds for the Nation's most urban areas. That formula would involve, however, the complicated task of reevaluating the present formula for expenditures under the Highway Trust Fund Act—which is based on population area, and road mileage; and whether the political climate will favor better highways and roads for Indiana is difficult to foresee. While the President will surely be repudiated in some manner for his impoundment of funds in the rough and tumble of the political arena; the fate of the highway trust fund will be in the same arena. I will fight in that arena for the highway and road needs of Indiana. I will also fight with all my force and wisdom to preserve the constitutional powers of the Congress. I will fight to preserve that power by attempting to attach to every bill or trust fund measure brought to the floor of the Senate, language prohibiting the impoundment of funds in those bills. And, also, I, as a member of the newly created Joint Congressional Committee on the Budget, will fight to reassert congressional authority over the budgetary process.

As I stated on the floor of the U.S. Senate last October concerning the issue of impoundment:

> Ours is the responsibility of establishing programs to meet the needs of the nation and ours is the responsibility to appropriate funds to make those programs work.

That is our constitutional responsibility and we cannot shrink from it. As a Member of the U.S. Senate, I am sworn to uphold the spirit and the letter of the Constitution. You can be certain I will not shrink from my constitutional obligation.

I ask unanimous consent that an article from the Indiana University Law Review concerning recent developments in this area be printed in the RECORD at this point.

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

RECENT DEVELOPMENTS

(Separation of Powers—Impoundment of Funds—Congress attempts to curtail the President's power to impound appropriated funds.—S. 373, 92d Cong., 1st Sess. (1973).)

Each year since first assuming office, President Nixon has, usually through the Office of Management and Budget, impounded 17–20% of controllable funds[1] appropriated by Congress; and it is the President's view that his "constitutional right" to do so is "absolutely clear."[2] On January 19, 1971, the President "permanently impounded" funds which were appropriated to complete the Cross-Florida Barge Canal, which was then one-third completed and on which $50 million had beent spent.[3] Over $70 million of HUD's "312" housing rehabilitation loan program funds have been impounded within the past two years.[4] Hundreds of millions of dollars which were appropriated for urban renewal, public housing, higher education, medical research, and myriad other programs have been impounded.[5] After Congress passed the Water Quality Act Amendments of 1972 over his veto, President Nixon impounded $6 billion which was to be spent for water pollution control.[6] Approximately $6 billion of funds appropriated for the building of highways has also been impounded.[7] Numerous efforts have been made by the Congress to partially ameliorate this problem.[8] Most recently, on January 16, 1973, Senator Ervin of North Carolina and 45 other Senators, including Indiana Senators Bayh and Hartke, introduced S. 373—a bill carefully drafted to insure a proper balance in the separation powers vis-à-vis executive impoundment of appropriated funds.[9]

Believing that use of the funds was unnecessary, in 1803 President Jefferson refused to spend $50,000 appropriated by Congress.[10] Although various Presidents impounded funds in the interim, neither Congress nor the general public thought the matter to be of much concern until the latter part of World War II.[11] The Anti-Deficiency Acts of 1905 and 1906[12] provided a technique to prevent undue expenditures in one portion of a year that could require deficiency or additional appropriations and stipulated that expenditure of appropriated funds could be waived in the event of some extraordinary emergency or circumstances which could not be foreseen at the time appropriations were made. After passage of the Budget and Accounting Act of 1921,[13] the Harding Administration formalized procedures for impounding funds pursuant to the Anti-Deficiency Act; and President Roosevelt withheld expenditure of funds, mainly in order to cope with the emergencies of economic depression and war.[14]

In the early 1940's, however, clamor of some magnitude developed when Budget Director Smith ordered the impoundment of amounts ranging from $1.6 million to $95 million which had been appropriated for civilian pilot training, the CCC's surplus labor force, the Surplus Marketing Corporation, and numerous civil and military efforts which the War Department could not complete because the projects did not have priority ratings to obtain scarce resources; but the public cry and political fighting was greatest when funds appropriated for a flood control reservoir at Markham Ferry, Oklahoma, and a flood control levee on the Arkansas River at Tulsa were impounded.[15] The 1940–41 squeeze on funds appropriated for these public works projects set the stage for first strong congressional opposition to impoundment policies. In mid-1943, Senator McKeller managed to slightly curtail the authority of the Budget Bureau to impound funds; [16] but, on December 16, 1943, a powerfully worded anti-impoundment rider to the First Supplemental National Defense Appropriation Bill [17] was defeated 283–13 in the House after passing the Senate by voice vote eight days earlier.[18]

It is noteworthy that at no time during the congressional debates on Senator McKellar's proposed rider to the Defense Appropriation Bill was it ever suggested that the rider might detract from any alleged inherent constitutional power of the President to impound funds. Objections to section 305 were almost exclusively based on the ground that the provision would interfere with President Roosevelt's power as Commander-in-Chief to develop priorities which would prevent waste and allow the energetic and successful prosecution of war efforts.[19] And when subsequent Presidents refused to spend funds earmarked for military projects, constitutional crises were routinely avoided by Congress.[20] The avoidance of a court challenge has probably been wise: Most authorities tend not to disagree much with the view that the President may, in his capacity as Commander-in-Chief, impound funds which reasonably relate to war efforts.[21] However, as indicated by the recent case of *Missouri Highway Commission v. Volpe*, [22] it is highly doubtful that the President has any other inherent authority to impound funds.[23]

The recently proposed bill S. 373 [24] would greatly enhance the "sharing of power;" [25] and, particularly in view of the fact that the last decade has seen impoundment used more often and for more reasons than ever before, the passage of such a measure would seem to be a necessary step toward redressing and safeguarding the system of constitutional checks and balances.

Section 1 of S. 373 sets out disclosure requirements. The section would require the President to submit a special message to both Houses of Congress within ten days after he impounds, or approves another person to impound, any funds appropriated or otherwise obligated. The special message, which must simultaneously be sent to the Comptroller General, is to specify the amount impounded, the date funds were ordered impounded and the date they actually were impounded, and

Footnotes at end of article.

the account to which the funds would be available except for the impoundment action. Additionally, the first section of S. 373 would require the President to announce the period of time during which the funds would be withheld, the reasons for the action, and the probable fiscal, economic, and budgetary effects of the impoundment.[26]

Indubitably the most important proviso of S. 373 is section 2.[27] This section stipulates that, absent the approval of Congress within 60 calendar days of continuous session[28] after receipt of the special impoundment message, the withholding of funds must cease. The crux of section 2 is to eliminate, or rather limit, what the President was never supposed to have—an item veto.[29] With the passage of S. 373, or a similar impoundment control measure, the President of the United States would no longer be able to completely defeat the will of Congress, *viz.* the President would not have discretionary and absolute authority over controllable appropriations.

S. 373 could not, of course, alter the constitutional powers of either Congress or the President, and it is not designed to have that effect. The measure is merely aimed at restoring a viable sharing of control over expenditures. And the President should welcome this carefully drafted measure: It would afford to the President an opportunity to avoid later, highly probable, head-on collisions with Congress over impoundments[30]—an opportunity of no small consequence since the federal courts might not be persuaded to allow as much deference to presidential inclinations as Congress may be willing to by statute.

FOOTNOTES

[1] The amount impounded at a given time ranged from $9.5 billion to nearly $15 billion. *Compare* OMB figures in *Hearings on Executive Impoundment of Appropriated Funds Before the Subcomm. on Separation of Powers of the Senate Comm. on the Judiciary*, 92d Cong., 1st Sess. 7–13 (1971) [hereinafter cited as *1971 Impoundment Hearings*], *with* Boggs, *Executive Impoundment of Congressionally Appropriated Funds*, 24 U. FLA. REV. 221, 226 (1972). According to figures released by the White House on February 5, 1973, the "reserve" of appropriated funds totaled $14.7 billion. Indianapolis Star, Feb. 6, 1973, at 3, col. 3.

[2] Indianapolis Star, Feb. 1, 1973, at 1, col. 4. President Nixon asserted that:

"The constitutional right for the President of the United States to impound funds and that is not to spend money, when the spending of money would mean either increasing prices or increasing taxes for all the people, that right is absolutely clear."

N.Y. Times, Feb. 1, 1973, at 20, col. 6 (city ed.). The President's brilliant appointee to the United States Supreme Court, Justice William H. Rehnquist, has clearly disagreed: "With respect to the suggestion that the President has a constitutional power to decline to spend appropriated funds, we must conclude that the existence of such a broad power is supported by neither reason nor precedent." Memorandum from Assistant Attorney General William H. Rehnquist to Edward L. Morgan, Deputy Counsel to the President, Dec. 1, 1969, at 8. *See* note 23 *infra*.

[3] *1971 Impoundment Hearings* 53 (testimony of Representative Bennett).

[4] 119 CONG. REC. 1754 (Jan. 22, 1973) (remarks of Representative Drinan).

[5] In view of President Nixon's recent Budget Message to the Congress, H.R. Doc. No. 15, 93d Cong., 1st Sess. (1973), it is virtually certain that the amount of funds impounded for the programs noted in the text will reach record heights in 1973 and 1974. *See* Indianapolis Star, Jan. 30, 1973, at 3 cols. 2 & 3; Wall Street Journal, Jan. 30, 1973, at 3, col. 1; *see also* Melloan, *Dr. Nixon's Painful Prescription*, *id.* at 18, col. 4. Merely indicative of the mounting crisis as to what for, how much, and by whom funds shall be spent are these factors: On Sunday, January 28, 1973, the President told his radio audience that he would propose doubling outlays for major pollution—control programs. *Id.*, Jan. 29, 1973, at 3, col. 3. Before the end of the week, however, the President called for a fiscal 1974 appropriation of $9.5 million for the enforcement of air-pollution control programs, as opposed to $4.3 million for fiscal 1973; but the message further sought to cut solid-waste control programs from a $30 million request for this fiscal year to $5.8 million in fiscal 1974. Of course, the request for additional air-pollution funds made some sense: The President also sought funds to revive the supersonic transport planes, remarkably polluting vehicles which Congress voted down two years ago. *See generally* H. JOHNSON, CATALYTIC REDUCTION OF STRATOSPHERIC OZONE BY NITROGEN OXIDES (1971); Dorsey, *A Proposed International Agreement to Anticipate and Avoid Environmental Damage*, 6 IND. L. REV. 190 (1972) (a succinct and specific analysis of the SST problem).

[6] See 119 CONG. REC. 1151 (Jan. 16, 1973) (prepared statement of Senator Nelson); Indianapolis Star, Feb. 6, 1973, at 3, col. 3.

[7] The withholding of funds appropriated for federal aid to interstate highway systems recently gave rise to the first major defeat the executive branch has received in the courts vis-à-vis impoundment. In Missouri Highway Comm'n v. Volpe, 347 F. Supp. 950 (W.D. Mo. 1972), the Department of Transportation and the OMB were enjoined from refusing plaintiffs to obligate funds (over $80 million for fiscal 1973) appropriated and set aside in the Highway Trust Fund. *See* § 209 of the Highway Revenue Act of 1956, Act of June 29, 1956, ch. 462, 70 Stat. 387, 397.

The original Federal-Aid Highway Act of 1956, Act of June 29, 1956, ch. 462, 70 State. 378, did not contain language which could comple the executive branch to expend funds. *See Decision* B–160891 of the Comptroller General, Feb. 24, 1967, *reprinted in 1971 Impoundment Hearings* 65; 42 OP. ATT'Y GEN., No. 32 (1967). Shortly after these opinions confirmed the President's power to withhold appropriated funds, Congress amended the Federal-Aid Highway Act by adding paragraph (c) to § 101 of 23 U.S.C.:

"It is the sense of Congress that no part of any sums . . . shall be impounded or withheld from obligations . . . by any officer or employee of the executive branch of the Federal Government, except such specific sums as may be determined by the Secretary of the Treasury, after consultation with the Secretary of Treasury, after consultation with the Secretary of Transportation, are necessary to be withheld from obligation for specific periods of time to assure that sufficient expenditures which will be required to be made from such funds."

Accordingly, when Secretary of Transportation Volpe alleged that the law vested in him the authority to withhold authority for Missouri to obligate funds currently available, Chief Judge Becker opined that such action was "unauthorized by law, illegal, in excess of lawful discretion and in violation of the Federal-Aid Highway Act." 347 F. Supp. at 954. The reason for impounding funds was, according to Secretary Volpe, to prevent the inflation of wages and prices in the national economy. Relying on the intent of Congress as expressed in the statute and finding Secretary Volpe's rationale completely without merit, the court granted an injunction, a writ of mandamus, and a declaratory judgment. *See* 5 U.S.C. § 703 (1970); 28 U.S.C. § 1361 (1970). The *Missouri Highway Comm'n* case is now before the Court of Appeals for the Eighth Circuit, where oral argument was heard on January 10, 1973.

[8] *See* notes 15–18 *infra* and accompanying text; S. 2581, 92d Cong., 1st Sess. (1971); H.R. 1254, 86th Cong., 1st Sess. (1959); H.R. 11441 and S. 3578, 85th Cong., 2d Sess (1958).

[9] The term "impoundment" is used in S. 373, 93d Cong., 1st Sess. (1973), and in this analysis, in a generic sense. *Id.* § 3. It can refer to reserving, withholding, freezing, or sequestering appropriated funds or deferring allocation of funds. *See 1971 Impoundment Hearings* (testimony of Senator Ervin); *id.* at 149–50 (testimony of Mr. Weinberger); *id.* at 241 (colloquy among Assistant Attorney General Rehnquist, Professor Stalz, and Senator Ervin); *id.* at 361 (testimony of Representative Ervins) Fisher, *Funds Impounded by the President: The Constitutional Issue*, 38 GEO. WASH. L. REV. 124 (1969) ("In its broadest context, impoundment occurs whenever the President spends less than Congress appropriates for a given period.")

[10] This appears to have been the first instance of executive impoundment of funds. In his third annual message to Congress, on October 17, 1803, President Jefferson stated that, "The sum of fifty thousand dollars appropriated by Congress for providing gun boats remains unexpended. The favorable and peaceful turn of affairs on the Mississippi rendered immediate execution of that law unnecesary . . ." ANNALS OF CONG. 14 (1803).

[11] *See generally* Church, *Impoundment of Appropriated Funds: The Decline of Congressional Control Over Executive Discretion*, 22 STAN. L. REV. 1240, 1244-49 (1970).

[12] 31 U.S.C. § 665 (1970); Act of Feb. 27, 1906, ch. 510, § 3, 34 Stat. 48; Act of Mar. 3, 1906, ch. 1484, § 4, 33 Stat. 1257. The Acts were doubtlessly passed due to budget deficits caused by the Spanish-American War, the Panama Canal, and several pension bills and river and harbor projects of the late 1800's and early 1900's.

A rider attached to the Omnibus Appropriations Act of 1951 amended the Anti-Deficiency Acts by adding 31 U.S.C. § 665(c)(2), which has become the main authority cited for by the executive impoundment of funds. Boggs, *supra* note 1, at 224. The amendment states:

"In apportioning any appropriations, reserves may be established to provide for contingencies or to effect savings whenever savings are made possible by or through changes in requirements, greater efficiency of operations, or other developments subsequent to the date on which such apportionment was made available."

31 U.S.C. § 665(c)(2) (1970). In view of this langauge, it is submitted that the intent of the House must be given careful attention:

"It is perfectly justifiable and proper for all possible economies to be effected and savings to be made. But there is no warrant or justification for the thwarting of a major policy of Congress by the impounding of funds. If this principle of thwarting of the will of Congress by the impounding of funds should be accepted as correct, then Congress would be totally incapable of carrying out its constitutional mandate and providing for the defense of the nation."

H. R. REP. 1797, 81st Cong., 2d Sess. 311 (1950). *See 1971 Impoundment Hearings* 153–54 testimony of Professor Miller and Mr. Cohn); *see also* Act of Aug. 28, 1957, 75 Stat. 426, 440; 33 COMP. GEN. 501, 508 (1959); 36 COMP. GEN. 699 (1957).

[13] Act of June 10, 1921, ch. 18, 4 Stat. 20, *see also* H.R. Doc. No. 1006, 65th Cong., 2d Sess. (1918) (where a national budget was outlined). It has been suggested that the Bureau of the Budget, now the OMB, became "a major device for presidential control" over executive agencies only after 1939 when the Bureau was moved to the Executive Office of the President. N. POLSEY, CONGRESS AND THE PRESIDENCY 89 (1964).

[14] Williams, *The Impounding of Funds by the Bureau of the Bureau of the Budget*,

INTER-UNIVERSITY CASE PROGRAM No. 28, at 7–8 (1955). *See* Act of Mar. 3, 1933, ch. 212, § 403, 408, 47 Stat. 1518, 1519; Act of June 30, 1932, ch. 314, §§ 101, 105, 110, 403, 47 Stat. 399, 401, 403, 413. These Economy Acts of 1932 and 1933 authorized the President to make layoffs, reduce the compensation of federal employees, and achieve economy by reorganizing executive departments. The War Appropriation Act for fiscal 1933–34 expressly authorized the impoundment of funds determined unneeded pursuant to an economy survey ordered by the President. Act of Mar. 4, 1933, ch. 281, § 4, 47 Stat. 1602. When, shortly after World War II, several billions of dollars of appropriated monies remained in excess of military needs, President Roosevelt rescinded the excess appropriations and directed the Budget Bureau to put the funds in a nonexpendable status. Fischer, *supra* note 9, at 125; *see Hearings on The Supplemental Appropriation's Bill for 1951 Before a Subcomm. on Department of Defense Appropriations of the House Comm. Appropriations,* 81st Cong., 2d Sess. 47, 120, 233 (1950).

[15] *See generally Williams, supra* note 14 (the best practical commentary on impoundment during the war years).

[16] H.R. 2798, 63d Cong., 1st Sess. § 9 (1943), *enacted as* Act of July 13, 1943, ch. 236, 57 Stat. 560, 563, prohibited any agency or official other than the Commissionary Public Roads from impounding funds appropriated as federal aid for the construction of certain roads. The Act thus by-passed a tight-fisted Budget Bureau Director. *See* 89 CONG. REC. 6309, 6313 (1943) (remarks of Senators McKellar, Hayden, and Vandenberg).

[17] H.R. 3598, 63d Cong., § 305 1st Sess. (1943).

[18] CONG. REC. 10,419 (1943) (Senate approved § 305 *id.* at 10781 (House rejected the rider)).

[19] *E.g., id.* at 10,362 (remarks of Senator Truman); *id.* at 10405, 10419 (remarks of Senator Lodge); *id.* at 10,780–81 (remarks of Representatives Cannon and Tober); *see* Letter from Secretary of War Henry L. Stimson to Senator McKellar, Dec. 7, 1943, *reprinted in id.* at 10,360. "Recognizing that the Bureau's right to stop specific projects during peacetime might be questionable, [Budget Examiner Charles Curran] contended that the President's war power permitted the President to prosecute (the) war in all its ramifications by all the machinery available to him." Williams, *supra* note 14, at 11; *see also* Hirabayashi v. United States, 320 U.S. 81, 93 (1943).

[20] *See* Church, *supra* note 11, at 1243 nn.21 & 22; Fisher *The Policies of Impounded Funds,* 15 AD. SCI. Q. 361, 366–69 (1970); Miller, *Presidential Power to Impound Appropriated Funds: An Exercise in Constitutional Decision-Making,* 43 N.C.L. REV. 502, 513 (1965).

[21] *See, e.g.,* E. CORWIN, THE PRESIDENT: OFFICE AND POWERS, 1787–1957, at 127–28, 137 (1957); *1971 Impoundment Hearings* 95 (testimony of OMB Deputy Director Weinberger); *id.* at 235 (testimony of Assistant Attorney General Rehnquist). *But see* Davis, *Congressional Power to Require Defense Expenditures,* 33 FORDHAM L. REV. 39 (1964); Stassen, *Separation of Powers and the Uncommon Defense: The Case Against Impounding of weapons Ssystems Appropriations,* 57 GEO. L.J. 1159 (1969).

[22] 347 F. Supp. 950 (W.D. Mo. 1972), a case currently before the United States Court of Appeals for the Eighth Circuit.

[23] *See* Boggs, *supra* note 1, at 229; Church, *supra* note 11, at 1249–53; Fisher, *supra* note 9, at 136–37; *1971 Impoundment Hearings* 180 (testimony of Professor Cooper); *id.* at 71, 72, 144–45, 206 *passim* (testimony of Professor Bickel); *id.* at 74, 153, 250 *passim* (testimony of Professor Miller. "If . . . the intent of Congress was to mandate the spending, . . . the President is not at liberty to impound in the case of domestic affairs which have no national defense or foreign policy considerations." *Id.* at 235 (testimony of Assistant Attorney General Rehnquist); C. ROSSITER, THE AMERICAN PRESIDENCY 254–55 (1960).

[24] 93d Cong., 1st Sess. (1973); *see* 119 CONG. REC. 1149–1152 (Jan. 16, 1973).

[25] *See* R. NEUSTADT, PRESIDENTIAL POWER 33 (1960).

[26] The special message, and supplementary messages, which are to contain the information described in the text must be printed in the *Federal Register,* as must be a list of funds impounded as of the first calendar day of each month. S. 373, 93d Cong. 1st Sess. § 1(e) & (f) (1973).

[27] The President shall cease the impounding of funds set forth in each special message within sixty calendar days of continuous session after the message is received by the Congress unless the specific impoundment shall have been ratified by the Congress by Passage of a resolution in accordance with the procedure set out in section 4 of this Act.

Id. § 2.

[28] Pursuant to § 4(b)(1), a concurrent resolution approving impoundment is necessary for the withholding period to last beyond 60 days, excepting that § 4(b)(3) provides that "continuity of a session is broken" by adjournment of Congress *sine die;* and, when either House is adjourned for more than three days to a certain day, those days are excluded from the 60-day period. Modifying Senate and House rules, § 4(c)(1) provides that resolutions pertaining to impoundment are not to be referred to committee and that they "shall be privileged business for immediate consideration" in order at any time, not debatable, and not subject to amendment nor motions to reconsider. In a word, the resolutions vis-a-vis impoundment would be handled more expeditiously than almost any other business.

[29] *See* C. ROSSITER, *supra* note 23, at 254–55. Professor Rossiter elicited legislation which would be similar to S. 373, but the opposite side of the coin, when he suggested "an occasional appropriations bill that authorizes the President to eliminate or reduce specific items subject to congressional reversal by concurrent resolution within a specified number of days." *Id.* at 255; *see 1971 Impoundment Hearings* 92 (testimony of Senator Mathias); *cf.* R. WALLACE, CONGRESSIONAL CONTROL OF FEDERAL SPENDING, 145 (1960); Miller, *supra* note 20, at 509; *see also* C. ROSSITER, *supra,* at 54; Cooper & Cooper, *The Legislative Veto and the Constitution,* 30 GEO. WASH. L. REV. 467 (1962); Forkosch, *The Separation of Powers,* 41 U. COLO. L. REV. 520 (1969).

[30] *See* N.Y. Times, Feb. 1, 1973, at 19, col. 1 (city ed.), which succintly reflects the vehement attitudes which many Senators and Representatives have recently expressed concerning executive impoundments. In his most recent Budget Message, however, the President maintained that there was *"no room for the postponement of the reductions and termintaions proposed in this budget."* 119 CONG. REC. 2370 (Jan. 29, 1973) (President's emphasis). *Cf.* S. 518, 93d Cong., 1st Sess. (1973), a bill which would make appointments of the Director and Deputy Director of the Office of Management and Budget subject to Senate confirmation. See 119 CONG. REC. 3059–3062 (Feb. 1, 1973) (remarks of Senator Metcalf); *id.* at 3182 *passim* (Feb. 2, 1973) (remarks of Senator Ervin).

THE SCARS OF STRIP MINING IN ILLINOIS

Mr. PERCY. Mr. President, on March 15, 1973, two Illinois constituents, John Tierney, of Catlin, and Robert Auler, of Champaign, testified before the Senate Committee on Interior and Insular Affairs. Both men appeared on behalf of the residents of Catlin Township, located in Vermilion County, to express this community's growing concern over the very real possibility of renewed strip-mining operations. Both represent a community-organized, nonprofit, citizen group called the Association for the Preservation of Catlin Township.

Many of the residents of Catlin Township moved to this relatively unblemished area to escape the scars of previous southern Illinois strip mining operations. This area is found just south of Danville, Ill., where strip mining originated. I have visited this section of our State on several recent occasions and have been appalled at the devastation and unsightly landscape which increasingly confronts the eye.

Mr. Tierney and Mr. Auler, president and general counsel of the association, respectively, came here to seek help in their efforts to prevent further uncontrolled strip-mining activity in the area. Specifically, they have outlined very clearly their well-founded fears concerning recent land purchases and planned mining activities by the Amax Coal Corp. of Indianapolis. Ind. The evidence presented by these two gentlemen indicates that Amax Coal may have knowingly violated Catlin Township's zoning ordinances. Amax has purchased several tracts of land located in areas zoned for single residences and apparently has stated its intention to mine on these purchases.

Current Illinois law, considered one of the more stringent, provides for reclamation, but not restoration of stripped lands. If actual mining operations were to commence, population, property values, and aesthetic value may be sacrificed. I have written both Amax and the association urging both groups to negotiate with any necessary assistance from my office in order to reach a mutually satisfactory resolution of their differences.

Since this single situation has parallels in many other areas of the country, I ask unanimous consent to have printed in the RECORD the statements made by Mr. Tierney and Mr. Auler before the Senate Committee on Interior and Insular Affairs.

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

DIRECT TESTIMONY OF JOHN M. TIERNEY TO THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, MARCH 15, 1973

I am here on behalf of the people of Catlin Township, Vermilion County, Illinois, just south of Danville, Illinois, where strip mining originated, and where its scars have been affecting the human spirit for decades. The people are very much concerned about the Amax Coal Corporation's planned strip mine which would surround the village of Catlin on the north, east and west, leaving it virtually an island surrounded by waste and devastation. The initial mine would comprise 7,000 acres, 5,000 acres of this land is some of the most highly productive farm land in the world, exceeding 140 bushels of corn and 50 bushels of soybeans to the acre. Much of the land sought to be purchased has produced 180 bushels of corn to the acre, according to University of Illinois surveys.

Catlin, as most all other communities in Illinois, has a zoning ordinance, intended to protect property values and it includes a one and one-half (1½) mile radius of the village. Despite the zoning of this area for single family residences only, Amax Coal Corporation during the past year has been buying land up to the village limits and has sought to buy more. At a Vermilion County Regional Planning meeting on January 25, 1973, Mr. Kobler of Amax Coal stated that they intend to mine this land, contrary to zoning. To many people, this would mean coming up to their front or back yards.

The 1970 census showed Catlin Township to have had the greatest percentage of population growth of any township in eastern Illinois.

The mining operation which can be expected to last 20 years or more can only cause a reverse population trend. The quiet surroundings that attracted many people to the area will be replaced by the noise of drag lines operating 24 hours a day, 364 days a year, as well as blasting, heavy equipment, and other disturbances normal to a strip mining operation. Why should the beauty of our natural resources, such as rows of corn, beans and wheat, timber and wildlife native to the area be replaced by the sight of towering booms of drag lines, huge trenches and other equipment incidental to surface mining.

No wonder the people of Catlin and the vicinity feel that the area may turn into a ghost town. Who would want to buy property near a strip mine? Most of the residents work in nearby Danville and move or are transferred on an average of every seven years. Where are the buyers for property going to be found when these people must sell?

Many homes in the area and near Catlin rely on wells for their water supply. Experts tell us that since the water flows toward the excavation site, the water level will likely fall and our water supply lost. How much is a $30,000.00 house worth without water? Amax, at is recent propaganda meeting admitted the water table might be destroyed.

Illinois state law does not require stripped land be restored, only reclaimed. There is no comparison between the words restoration and reclamation.

This farm land reclaimed cannot possibly produce the crop yields we now have. Amax proudly showed slides of its "ideal" reclaimed lands which yield one half of our present bounty. How can anyone justify the sacrifice of a natural resource that will serve mankind, probably for eternity for a resource that would be used for immediate demand and then gone forever. Surely there are ample deposits of coal elsewhere, the mining of which would not destroy as much of the value of our nation and our world.

The village of Catlin is over 100 years old and has a population of about 2,500. Our situation has been compared by a local newspaper reporter as the story of "David and Goliath" in modern times. Any small village such as Catlin is at an unfair advantage against a wealthy corporation such as American Metals Climax Incorporated. How much money can a small town have to pursue legal actions to enforce their zoning laws? The coal company is well aware of their advantage and has not concerned themselves about zoning laws. However, in this instance the citizens are so aroused that many volunteered to help finance legal action. We will expend our own personal funds to pursue legal action to preserve our town.

In my eleven years as an Internal Revenue Service Officer, I have been in contact with many dishonest people. However, this is the first time I have seen a major corporation in pursuit of their business of buying land for mining, practice such deceit, lying and pressuring even to the point of a land buyer pushing a pen in an old woman's hand to get her to sell her land.

This is a prime example of corporate profit first and the public be damned.

DIRECT TESTIMONY OF ROBERT I. AULER TO THE SENATE COMMITTEE ON INTERIOR AND INSULAR AFFAIRS, MARCH 15, 1973

My name is Robert Auler and I'm an attorney practicing law in Champaign, Illinois. I'm here today representing the Association for the Preservation of Catlin Township, a not-for-profit corporation composed of persons interested in preserving the rare and unique combination of rural and small town life which exists in Catlin Township, Vermilion County, Illinois.

The threat to the continuation of their way of life is the recently announced plan of the Amax Coal Corporation to create a huge strip mine which would consume more than half of the township as it now exists.

In this small township is one of the few unspoiled areas left in east-central Illinois in which timberlands, farms, and small towns co-exist and give each other the benefit of the unique, but fading little American culture which has produced so much for so many in our state.

The United States Congress should be concerned with this problem because of the immense disparity between huge corporations like Amax which appear to gobble up more subsidiaries every year, and the small, relatively unsophisticated individuals who live in the towns and on the farms where strip mining operations are situated. In the same way the Congress took into account the overwhelming bargaining advantage of huge corporations against individual employees as a basis for justifying labor legislation, so should it establish protective legislation for all the small people who may not have the sophistication or the finances to organize and stop operations of this kind. The village of Catlin has been fortunate in having people who were not afraid of this coal company, and who had organizational talent. There must be hundreds of places in the United States where people are simply intimidated into silence when a huge conglomerate announces that it is about to gobble up the land and then disgorge it relatively undigested.

Current Illinois law, although it is billed as remedial and even "tough" is much weaker than the laws of such states as Kentucky and West Virginia. Our law provides only for reclamation which can include slopes of as much as 15% or up to 30% if the land is to be turned over to forest, recreational, or wildlife use. Moreover, the mine operator does not need to reduce or eliminate the final high wall cut, but can simply submerge it under at least four feet of water. He has to make no attempt to replant until approximately three years after mining has ceased. There is no requirement that the rare and unique central Illinois topsoil be saved and reused. No where in the act is there a requirement that the land be reclaimed for its highest and best use, nor is there any definition as to the goals which should be sought in establishing the ideal reclamation.

For more important, this act received only a $50,000.00 appropriation from the state legislature and it is being enforced in an extremely haphazard fashion. The explanation of one of the mining department investigators, recently, was that testing for compliance was done through blindfolding an official who then pointed to a map. The enforcement officer then went to that location and cast a stone over his shoulder. Wherever the stone landed, there the test was made as to foliage density and grade.

A super important facet in any proper strip mining legislation which could emerge from this Congress would be citizen input. Obviously the problems of central Illinois are different from those of Wyoming. We don't have any pronghorn antelopes to protect, and they don't have to worry about 180 bushels of corn to the acre. Nevertheless, if mining operations were required to appear before a board for licensing, all the peculiar features of each area could be taken into account. This would encourage bargaining with the aroused opponents of the mines, and possibly resolving differences in such a way that mine operators would agree to make different restoration attempts in different parts of the country. Obviously it is more important to consider esthetics when you're mining in a population center than when you are mining in the middle of a desert. Moreover, any board should be authorized to hold hearings in the locality effected rather than requiring citizens to transport themselves to Washington, D.C. to petition their government for relief. Finally, any strip mining should be controlled by the possibility of heavy fines and the necessity of heavy bonds being posted. In the State of Illinois, bonds range from $600 to $1,000 per acre. Considering the vast coal resources of our state, such a sum could be forfeited as easily as the company forfeits paper clips or any other minor office expense.

Another feature of any such legislation should include some access to the courts or to the board for damage to property values to surrounding communities, farms, or for damage to natural resources such as water table and rivers in recreation areas. Any such actions should create a provision whereby any citizen has standing to recover for and on behalf of the general public for damage to public areas, rivers, and the like.

There are many other features which should be incorporated in this legislation, but the most important is citizen input and a definition by proponents and opponents of strip mines of what is technologically possible and what is environmentally desirable regarding reclamation.

If that is done, the problem may not be solved, but will certainly be improved. We cannot allow a situation to exist wherein the residents of places like Catlin must organize virtual vigilante committees to try to protect their property and way of life.

TO SERVE THE PEOPLE—CHALLENGES TO YOUTH IN THE 1970'S

Mr. HUMPHREY. Mr. President, recently it was my privilege to address a graduation banquet hosted by the Presidential Classroom for Young Americans. This highly successful nationwide program, originated under previous administrations in Washington and subsequently operated as a nonprofit and nonpartisan educational endeavor, has provided invaluable opportunities to thousands of young men and women to learn about our Federal Government at first hand in discussions with departmental officials and Congressmen. And these experiences are evaluated in seminars with instructors assigned to the groups during these week-long sessions, for which the students must make in-depth preparations through reading text materials provided under this program.

In my remarks, I focused on the crucial importance of overcoming a knowledge gap about people—the needs of our people at home, and the hopes and aspirations of people of other nations—if our Government is to carry out effectively its responsibilities to promote the general welfare and to promote the causes of peace and international development as a world power.

Mr. President, I ask unanimous consent that excerpts of my remarks delivered to this inspiring assembly of youth in Washington on March 30, 1973, be included at this point in the RECORD.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY

It is a distinct pleasure for me to join this graduation banquet for the fifth class of the Presidential Classroom for Young Americans program for 1973.

You are entitled to sit back and enjoy this evening after what I imagine has been a demanding week of intensive seminars with Government officials and Congressmen from early morning until late in the evening. You come to this moment crammed full of impressions that you must try to sort out on your way back home in order to relate effectively to your fellow students and your communities what you have learned in Washington. And I urge you to approach this final classroom assignment with a heavy sense of responsibility, for your first-hand account of the principles, the methods, and the goals under which our government functions today will carry great weight back home.

You have had an unparalleled opportunity to be an eyewitness of America's political power and responsibilities. And you bear a heavy obligation that goes with that opportunity, to present a fair and informed judgment on what you have observed and learned.

I am hopeful, however, that a two-way process of learning has occurred during your week in Washington, for it is incumbent upon those who represent and who serve our people to recognize that they have been meeting with a whole new generation of voters, whose views and concerns demand serious attention.

Now I want to talk about what *should* have been going on in this mutual learning process.

It is stated emphatically that "Presidential Classroom is entirely educational and *non*-partisan." But one of its purposes is that youth at these classrooms should develop "a humanized appreciation of the political relationships and influences that shape our system of government and the conduct of its affairs."

Tonight I want to talk about this *human* factor—the *people* behind what might seem a faceless mask of government, and the people who exist behind that neutral term: The general public.

And what I intend to accomplish this evening is to make you very *partisan* about these people. All of us can readily recall the memorable lines from Lincoln's Gettysburg Address, but it was Senator Daniel Webster who first spoke those immortal words:

"The people's government, made for the people, made by the people, and answerable to the people."

"Politics is people." That phrase, used almost too frequently and too easily, must be given a new and urgent meaning in the decade of the Seventies.

I learned politics at a young age with my father. I went with him to city council meetings, to county democratic gatherings, and to state party conventions. What I learned was that politics offers solid opportunities for public service. It can challenge the best that is in a man or a woman to work to help make this country, this world, a better place in which to live, to work, and to hope in the future.

I enjoy public service. I give it everything I have. Our government faces tremendous responsibilities today at home and abroad. But those responsibilities are going to be carried out by ordinary human beings in public service making decisions on a day-to-day basis, always under pressure, and with the tools that are immediately at hand. So the ability of these people to make the right decisions, and take the right action will be strongly affected by the capabilities, the knowledge, the experience they already possess.

That is why I want to pose some challenges tonight to you who are having your first important experience as spokesmen of and to other people. You may be considering making a career of public service, and I want to give you every encouragement to pursue this vocation.

But representative government in this democracy is no better than the people it represents. We say that this nation is a world power, but are we as a people capable of exercising that power in a world that is undergoing tremendous changes? How much do we really know about this world—especially, about its people?

Today, we are a world power with a half-world knowledge.

We know a great deal about Great Britain and the nations of western Europe, with which we have had long-standing cultural ties and close alliances.

But what do we really know, for example, about the Russian people—the true source of that nation's great power? That knowledge will be vital in the coming years, for the United States is no longer the greatest power in the world—it is just one of them.

So we are going to have to learn new lessons. We are going to have to focus not on the blunt use of power, but on the restraint of power, its gradual employment for what we try to determine is the greatest good for the greatest number of people.

One decisive lesson of the Cuban Missile Crisis that occurred over a decade ago, for example, when the first steps were being taken toward forming what later became established as the Presidential Classroom, was that from that time on—having been threatened with destruction unless they removed their offensive missiles from Cuba—the Russians resolved to become a nuclear superpower. And for years we have had to struggle along with a peace achieved solely through a balance of terror.

But what do we know even today about the U.S.S.R. with whom we will have to continue to develop new working relationships? The real power of the Soviet Union is in the strength, the character, the durability of its people. It is in its scientific resources. When it comes to building the weapons of war—the cutting edge of power—the Soviet Union is second to none.

But international diplomacy—nations resolving conflicting interests—is a process of balancing strengths and needs. The Soviet economy, for example, next to that of the United States, is a small town garage compared to General Motors. There is much that can and must be done in this area, therefore, to strengthen international relations.

But let us assume you are representatives of the people and one of your responsibilities is understanding the developments in other nations, the reasons their actions have the potential for creating international tensions.

As I indicated at the outset, to a great extent you will have to fall back on your own resources—the history you have learned, the abilities you have developed to understand and to analyze what is going on around you, and the processes you have mastered to get at the facts.

How will you analyze actions by the Soviet Union in the Middle East and toward its communist neighbor, China? Do you know the facts of history—that Russia historically has been trying to move into the Arabic states, to break out of the Black Sea? Do you understand the fundamental cultural differences, evolved over countless generations, that really explain the Sino-Soviet Split, the division of the two great powers of communism, where each nation has adapted a political system to more basic, in-bred traditions.

Let me cite just one other area of this Nation's knowledge gap about the world—a knowledge gap that can seriously threaten the effective exercise of power, leaving to your generation another major international tension situation to resolve.

I am referring to the Far East. Did you know that only ten colleges in America had a course on the Far East prior to World War II? And how much did we know about Vietnam when we sent in military advisers over a decade ago, leading to the longest armed conflict in which this nation has been involved in its entire history?

Then look to the *future* in the Far East. Which power will be the focal point there having a major impact on International Relations—China? Japan? India?

The strength of each of these nations is its people, but our first-hand knowledge of them—their heritage, the values and commitments that are central in their lives, their accomplishments and future goals—about all of this we are really ignorant. And there is nothing more dangerous than a little knowledge—especially when it comes to making judgments affecting an entire nation.

So if there is one piece of advice I would give to anyone considering a career in public service, it is that you must have a deep desire to learn and keep learning. You will never really understand the present unless you have a good grasp of history. You will never make the best possible judgment about the truth of a situation if you are content just to take someone else's word for it.

But to those of you who may be considering public service as an elected representative of the people, I would add an extra dimension to this lesson. Those people are not numbers, or statistics, or types—they are individual persons, each with his concerns, his ambitions, his viewpoints, his prejudices, and his needs.

The art of politics—and the thing that makes it one of the best of all possible full-time vocations—is to know these persons; to understand what makes them tick; to communicate with a man at a genuine level because you've both got the same mud on your shoes; and to share a handclasp that says it all.

American history books don't really tell you much about what went into the building of this country. Dates and places and famous names are all fine. But what really explains America is the character of its people. And you don't understand that character until you know their sacrifices, their determination, their hopes for the future.

It's nice to know that on a certain day long ago a Golden Spike was hammered home in a railroad linking East and West for the first time. But the missing paragraph would have told you of the thousands of bodies of Chinese and Irish laborers that littered that trackage.

It's important to know that slavery was an important factor in the causes of a major civil war. But where will you find a history of the contributions of minorities in the building of America?

You can probably recite a list of great names in American private enterprise. But it was working people who built that enterprise; it is their labor which explains a gross national product of over a trillion dollars.

What I am saying is that you cannot preach a sermon about human dignity unless you know what has happened in people's lives. You will not really understand what is meant by justice tempered with mercy, or principles refined by tolerance until you understand people's struggles—the striving after what, in the end, is a better quality of life.

The point of this lesson has an immediate relevance today. A lot of experts are trying

to explain the American people—what's happening to them; what they expect of the future.

There are good reasons for concern. What is the real reason that only 55 percent of the electorate voted in the last Presidential election?

And by the way, the "New Generation" of youth showed no real differences from the rest of the populace in its voting patterns—a low rate of participation at the voting booth, with neither political party receiving a substantial advantage from a so-called "bloc vote" that proved to be a myth.

Yet how can we talk about America being a government of, by, and for the people when almost half the people did not bother to register their preference at the ballot box? Compare that with voter turnouts of over 90 percent in West European nations.

We say that an informed electorate is the bedrock of Democracy. But in India, with a high rate of illiteracy, over 70 percent of the voters went to the polls.

We could probably spend the rest of the night listing reasons for all this. But we would be left with one question about which we should be deeply concerned. Let me pose that question bluntly: Can Democracy survive in plenty?

Was Marx right when he said, in effect, that it is the very wealth or self-satisfaction of capitalism that will do us in? Have so many people let their self-interests stand in the way of their country's interest?

When I was Mayor of Minneapolis I instituted an open-door policy. Every Saturday afternoon any citizen who had a complaint could walk right in and take it straight to the Mayor himself. But I had one question that usually cut those complaints short. I didn't care about the man's politics, but I just asked him straight out: "Did you vote?" The message was simple: "I have a responsibility to you as a resident and a taxpayer. But you have a responsibility to maintain the free choice of the electorate, that happened to put me here." And he usually got the message.

There is another reason why those of us in public service must focus our attention now on people.

We are going through a revolutionary period. There is a tremendous migration of people in the United States. It is unequalled in all of recorded history. I am talking about a migration from the farm to the city, about deserted areas in the Mid West and increasingly dense populations on the East and West Coasts.

I am talking about rural and small town people finding themselves aliens in a foreign land when they enter urban areas with a totally different culture. As people migrate, it is now clear that they are going through traumatic experiences.

But even more than this, we seem to have gotten everything upside down in this nation on where people live and work, and we're beginning to discover that it is having an extensive psychological impact as well as putting a tremendous strain on our public facilities and resources.

We have simply got to get hold of this situation in the decade of the seventies and begin to plan for balanced national growth and development.

We have to restore to people a free choice on where they will live and work. We have to restore a decent and satisfying living environment. And we have to restore a sense of community.

Look at the situation we've created for ourselves. The factories are moving out into the country, but the workers are in the central city. The Executives and Bankers live in the suburbs, but their jobs are in the central city. And all of them have to commute—and that often means 45 minutes of bumper-to-bumper traffic—one of the best tension-builders that mankind has ever created. What an accomplishment!

Americans have been increasingly separating themselves from the things that make for community. Instead of services close at hand and with which they can identify, they have to put up with a long drive to an anonymous shopping center or to a crowded medical clinic.

They can't find local parks and recreation areas—they're even lucky to squeeze into a national park after several days of tiring travel. Did you know that London has twelve times as much park space as New York? Then consider the fact that London has a much lower rate of crimes of violence.

Now the last example I want to give of the great importance in public service right now of giving the highest priority to people, is the document that has just been presented to Congress—the Federal Budget for Fiscal 1974.

I know there is a good mixture here of intelligent Democrats and misguided Republicans, so I have a responsibility to be nonpartisan in my remarks. But I also have a responsibility as a United States Senator to express my deep concern over a budget that reflects a basic decision to reduce the priority of serving the needs of people.

We've heard a great deal about achieving fiscal responsibility in this Budget, and I yield to no man in my adherence to that principle. But let me just point out that Congress has cut budget requests in every year of this Administration—last year reducing them by some $5 billion in defense alone. By contrast, this fiscal '74 budget projects a $12.7 billion deficit.

But after all the haggling over who is really the spendthrift, one harsh fact comes through sharp and clear: In this budget, some $10 billion will be sliced from social programs designed to help the poor and the underprivileged overcome barriers to meaningful participation and hope in American society.

It is a budget of cutbacks in health, in education, in manpower, in housing, in the rehabilitaion of the handicapped, in the war on poverty.

It is a budget that neglects the people.

It is a budget of what I would frankly call, "domestic disengagement," the counterpart of our disengagement from Vietnam.

It is a budget that is dead wrong in its priorities, and this is one Senator who won't stand for it.

Now the Administration says that we can't pay for these people-centered programs without raising taxes. I don't believe that deception will last very long.

First, by cutting back federal help to states and cities, all that is being accomplished is a transfer of the tax burden, while the same taxpayer foots the bill. There are public services and programs that simply cannot be cut back without doing violence both to human decency and to economic good sense. And that means that state taxes and local property taxes will have to pick up the slack.

But second, this budget does not contain a word about tax reform. And it is genuine tax reform, coupled with long-overdue reductions in non-essential defense expenditures, that can produce the added revenues for people-centered programs.

It is genuine tax reform that will at last make it a reality that every American pays his fair share. It is genuine tax reform that will say to the middle-class wage earner that someone else is going to share the burden he has borne for so long of paying for our national priorities.

And it is genuine tax reform that can place a surcharge on preferred income—that category of private wealth that is generally out of the reach of the working families of America.

I believe the time has come to draft a new bill of rights for all Americans:

The right to decent living conditions;

The right to quality education for all our children;

The right of all Americans to good health care, at low cost, and immediately accessible;

The right to a meaningful life, free from poverty;

The right to full and equal protection of the law;

The right of everyone who needs and wants a job to productive and gainful employment; and to advance in that job on the basis of merit alone;

The right to a clean and decent neighborhood;

The right to life free from violence or terror;

The right to privacy, free from official or private invasion;

The right to be free from hunger;

And the right to a clean and wholesome environment, with protection of resources for recreation and leisure.

These rights belong to *all* the American people—yet for too many, such rights are myths. Without these vital rights, without these rights being applicable and accepted, there are no real civil rights.

It is not enough to have laws establishing such rights. There were laws under Hitler and Stalin. It is the *practice* in which these rights are genuinely affirmed that counts. The talk of human dignity on Sunday must not be followed by the practice of human degradation on Monday. We betray our Nation's purpose when we accept the existence of a run-down school in the central city or in a poverty-stricken rural area, when we do nothing about the malnutrition that afflicts children at all income levels, or when we allow a family to live in a rat-infested tenement, and force that family to go miles to find a doctor.

What I am suggesting is that the time has come to establish a new civil rights coalition—a brotherhood of men and women working together to establish as the highest national priority the meeting of the critical needs of our people.

Now, I have only mentioned a few of the items on the priority work agenda of Congress. I mention them to point out the heavy responsibilities that a United States Senator or Representative must be ready to assume, the hard decisions he is going to have to make, the extensive resources he will have to call upon, if he is to fulfill his public service to the people.

Above all, however, he must constantly reach for as much knowledge as he can absorb. He must maintain the broadest and most alert perspective possible about what is happening in America and throughout the world.

But it is you who have the advantage here. You are at an age of life when you can learn more and learn it better. In carrying out your responsibilities and in developing invaluable insights in your first-hand contacts with government officials and elected representatives in Washington, you are gaining a vantage point, a broadened perspective, denied to many others.

I urge you to seize hold of these opportunities and make the most of them—you owe it to yourself; you owe it to other people; and you owe it to your country.

MISSING MILITARY PERSONNEL

Mr. THURMOND. Mr. President, I would like to speak briefly on a bill relating to certain missing military personnel which I have reported today from the Senate Armed Services Committee.

This bill is a highly technical one and

has been reported for the purpose of correcting the inadvertent and unintentional result of a measure enacted in the last Congress. The bill would apply only to certain missing military personnel who later were determined to be dead and who were promoted after October 12, 1972. It insures that the various benefits to their survivors will be based on the grade to which they were promoted even though the date of death may be determined to be prior to the date of promotion. Otherwise, through the inadvertent omission in the law, the families would not receive the benefits for the higher grade to which they were promoted, and this was not the intent of Public Law 92–169 approved November 24, 1971. The technical omission in the law resulted from the failure to properly cross reference a particular provision of law.

Mr. President, I would like to emphasize that this bill is purely technical in nature and would make no substantive change in the law whatsoever. I urge prompt action on this bill so that none of the survivors of our missing men will be penalized as a result of a technical omission in the law.

ADDRESS BY DR. ARTHUR KORNBERG TO NATIONAL CYSTIC FIBROSIS RESEARCH FOUNDATION

Mr. MAGNUSON. Mr. President, Dr. Arthur Kornberg, a Nobel Laureate in Medicine, recently delivered a fine speech to the conference of the National Cystic Fibrosis Research Foundation. His comments discuss the disastrous effects which reduced Federal funding would have for basic medical research. His comments are strong, and well they should be, as I, too, believe any reduced Federal funding would be an unfortunate calamity.

I should like to share Dr. Kornberg's excellent comments with the Senate. I ask unanimous consent that his recent speech be printed into the RECORD.

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

CYSTIC FIBROSIS AND THE SUPPORT OF SCIENCE

(By Arthur Kornberg)

Our purpose here is to do whatever we can to relieve the distress of children with cystic fibrosis and the agonies their parents suffer with them. Because this disease attacks young people, there is a degree of anguish and frustration exceeding that of most other afflictions I know.

I am not directly involved in research on cystic fibrosis and so I have no personal experience or insights to share with the laboratory investigators and clinicians present who are working on the problem. Nor do I have the same emotional involvement. Perhaps because I am more detached, I may be able to analyze the total problem with a different perspective.

Last summer I had an opportunity to attend a special conference in Israel on cystic fibrosis and learn a great deal about it. Among the genetic diseases of which I am aware, cystic fibrosis impresses me by the inherent complexity of the disease and the lack of basic knowledge about the chemistry and physiology of the tissues involved in the disease. I have been impressed by the dedication and intelligence of the investigators working on the disease. I have also been astonished at the incredibly small number of these investigators throughout the world who are working on the problem.

Among the scientific things I heard at the conference in Israel, I was especially intrigued to learn of a protein present in the serum of CF patients but not in normal serum. This protein could be assayed in the oyster by its interference with the rhythmic movement of little hairs, called cilia. Why the oyster? Apparently the function of the cilia in the oyster is to move fluids and mucus as do the cilia in our respiratory tract.

Given this assay, the techniques worked out by biochemists to purify proteins should enable investigators to isolate this CF protein. I was excited to read in the current issue of the Proceedings of the National Academy of Sciences that this effort had been successful. At this Conference you have heard this work described. Drs. Bowman and Barnett at the University of Texas in Galveston, Dr. Matalon at the University of Chicago and Drs. Danes and Bearn at Cornell in New York had collaborated to purify the CF protein. They obtained it from tissue cultures of fibroblasts taken from the skin of CF patients.

This is an important discovery. It will surely have a major use in diagnosis of the disease, hopefully prenatally. This discovery may be a wedge toward understanding the basic defect in the disease and thereby be a first step in a rational effort to *cope* with it.

I wish that we might soon be able to do as much for the child with CF as for the child with diabetes. The diabetic child would be doomed were it not that we understand the nature of insulin and are able to administer it to save the child. But even were that wish granted, we should then want a second wish. This because our success with diabetes as with other genetic diseases is not complete. We do not cure diabetes. We only *cope* with it and *endure* it. The genetic deficiency remains!

Clearly, the second wish we would make is to avoid the genetic disease entirely or if afflicted with it to find a total cure for it. Genetic therapy can take many forms. It is an objective for which we must strive. This is the theme upon which I had intended to speak today but a problem of far greater urgency has overtaken and overwhelmed us.

Those of us who do research in medical science and train young people for research in medical science have witnessed in recent weeks the most calamitous decision a government of the United States could make for the future of medicine and the welfare of our country. Were there an intentional effort to undermine the health and economic welfare of this country for the coming generations, I could imagine nothing more devastating than to stop training our best young people to do research in basic medical science. Yet this is precisely what has been done and the consequences of the decision have not been foreseen.

Why was this decision made? Surely the decision cannot be ascribed to economy. The science training programs cost about 300 million dollars annually. This is less than ½ of 1% of the budget for welfare or for defense. For weapons research and development alone, 20 billions a year is being spent. This to protect us against the *possibility* of attack by a hostile country. But now we have been told we can't afford to spend even 1% of this amount to train young people to fight diseases for which crusades have been proclaimed and that we know for *certain* will kill millions of our citizens each year.

Because the practice and support of science are perplexing problems and of such vital importance, I want to examine them with as much perspective as I can.

The goals and attitudes in research have not changed in any fundamental way for hundreds of years. Achievement in science depends on the same human qualities required in other professions, in art and in business. We find among scientists the same variety of abilities and styles, or strengths and weaknesses, that are found among lawyers, doctors, artists and businessmen. What is different is science itself. Science differs from other human activities in the way it is practiced and the way it progresses. The pattern of science is a stepwise extension of what was done before. How do we judge that a new finding has brought us closer to the truth? What represents scientific proof? These questions are exceedingly hard to answer. As Aristotle expressed it: "The search for truth is in one way hard and in another easy. For it is evident that no one can master it fully nor miss it wholly. But each adds a little to our knowledge of nature, and from all the facts assembled there arises a certain grandeur."

What Aristotle said so poetically is that scientific activity seen with perspective always moves forward. Science is thus unique among human endeavors in the polarity of its movement. We call it progress. I must repeat that it is science that is extraordinary, not the scientist. Because science enables ordinary people to express their creative talents in a global and purposeful way. Their humble probings, so picayune individually, combine to exert irrestible forces in exposing the grand designs of nature.

It has often occurred to me that the flow of science resembles the movement of rivers. Rivers have a fixed direction and continuity as they flow down to the sea. Like rivers, the pace and dimensions of scientific movement vary enormously. But shallow or deep, broad or narrow, sluggish or swift, the movement is inexorably forward.

There may be eddies in science as in rivers; and there may even be apparent reversals of direction. In recent memory, Lysenko and his followers stifled genetics and molecular biology in the Soviet Union for a whole generation and Soviet medical science and agriculture show the scars.

In contrast to the forward movement of science, the support of science by society has no direction. The attitude of society toward its social problems has been likened to the swing of the pendulum. And so also the support of science, rising and falling as it has throughout history, does not resemble a river, but rather the movement of tides.

In my scientific lifetime I have seen a very low tide of science support during the thirties before the war. Then there followed a strong high tide for twenty years after the war. For the past five years, the support of science has been visibly ebbing away. Funds for important research by excellent scientists have been cut at a time when inflation and advanced technology require increases. And now the support for the training of our best young scientists has been abruptly eliminated. This support for research and training cannot be finely regulated. It is not like the adjustment of the sluice gate of a dam to fluctuations in supply of and demand for water. When the flow of science support is turned down, the stream of progress dries up and cannot be restored for years. Why are we reversing the tide of science support?

The answers to this, as for other social questions, are numerous and difficult to assess. But there are three questions to which I can respond. The first is: Did scientists individually or collectively take full advantage of the very generous postwar support by society? The answer is: Emphatically yes.

The results of the massive support of science during the past twenty years have exceeded even the most optimistic predictions. No one imagined that we would acquire so quickly the firm grasp we have today of the basic designs of cellular chemistry and its regulation. The nature of heredity, clouded in abstract genetic language only twenty years ago, can now be described in explicit

chemical terms. In the next twenty years the chemistry of genes can become more precise, varied and extensive. The control of genetic functions and the replacement of defective genes will, if we don't sabotage ongoing basic chemical and biologic research, transform the image of health and disease as dramatically as any advance in the history of medicine.

And beyond practical benefits in medicine and agriculture, the new knowledge of gene structure and functions will give us deep esthetic pleasure. We will have new and deeper insights into the evolution of life on earth, a basic appreciation of how man is related to his earthly ancestors and neighbors and a clearer idea of future evolution.

There is a second question about the support of science which may be posed. Were scientists themselves responsible for promoting the generous support of the postwar period? The answer must be equivocal. While some scientists were influential in advising the government, the major force in support of science came from the Congress and citizens testifying before its committees. I am convinced that the support of science, so absolutely vital to our future, has been and must remain the responsibility of society. It is too important and too complex a problem to be left to scientists. However when society is generous in its support, scientists will be found and trained. They will make excellent use of the support and society will be repayed many times over for its investment.

The third question I want to consider is very difficult. Since society pays for the research, should it call the tune? Should society specify how much money and effort should go into basic research and how much into solving specific problems, such as cystic fibrosis or cancer. To this question, there is no simple or emphatic answer. Because the important distinction to be made is not between basic and applied research. Rather the important thing is to identify the creative and motivated scientists and to support them in their work, basic or applied. This point has been illustrated over and over again in the history of science. Let me cite one recent example.

Penicillin was discovered by Alexander Fleming in 1929, while he was doing basic research on bacteria. He noticed one day that a Penicillium mold which had contaminated one of his petri plates had destroyed the bacteria around it.

This accident happens all the time and everyone discards such a plate. But not Fleming on this occasion. It occurred to him that the mold was excreting a substance which could destroy bacteria, but might not be toxic to man. He proved there was such a substance and named it penicillin. Fleming then tried for 10 years to isolate enough material to test it clinically. He was unsuccessful. However, Boris Chain, a chemist, and Howard Florey, a pathologist, came along and within a few months isolated enough penicillin to establish its extraordinary clinical value. Fleming, despite wanting to, could not solve the difficult problem of producing a stable penicillin product in quantity. Chain and Florey who did succeed would never have made the basic discovery.

I want to emphasize by this example that basic research and applied research *are each essential* and *they are interdependent*. Perhaps most important, we must recognize that scientists differ in their talent to do one or the other. It is utter folly to ignore these facts.

Suppose we were to rely solely on the available basic knowledge of the chemistry and biology of human cells and decided to apply all our resources in a crash effort to solve the problems of cystic fibrosis or of cancer. Would we succeed in either? I am certain we would fail because we lack necessary and basic information to solve these complex problems. It would be like planning the moonshot without having Newton's Laws of Mechanics. Even if there were a tiny chance of success, I find the gamble of a premature and total commitment far too risky for such serious problems as these diseases pose.

Solution of the cancer problem may seem to be around the corner. It has seemed that way for many years. It is an exceedingly complex problem and it will not be solved as simply as polio. Polio was a difficult jigsaw puzzle, but we had most of the parts. The cancer puzzle is many times larger and we have very few of the parts. Of course, we must study cancer from every aspect. But we also need a vast amount of basic information that we lack about the chemistry of cellular growth and development. The same must be said for cystic fibrous.

Applying what we *don't know* won't solve the problem or help a single patient.

In the long view, America's strength is not in mineral resources, in hydroelectric power or in agriculture. It is not in the accumulation of a huge weapons arsenal either. America's strength is in the moral and intellectual resources of her people. This is where her power lies.

There are two compelling reasons why we must support basic science. One is substantial: the theoretical physics of yesterday is the nuclear defense of today; the obscure synthetic chemistry of yesterday is curing disease today, studies of ciliary movements in an oyster provide a diagnosis for cystic fibrous. The other reason is cultural. The essence of our civilization is to explore and analyze the nature of man and his surroundings. As proclaimed in the Bible in the Book of Proverbs: "Where there is no vision, the people perish.

Today, lights are going out in laboratories all over America.

NOW IS THE TIME FOR NEGOTIATIONS WITH CANADA FOR A TRANS-CANADIAN PIPELINE

Mr. PROXMIRE. Mr. President, on April 2 the Supreme Court denied certiorari in the Alaskan pipeline case thus letting stand the appeals court's decision to block construction of the pipeline.

It is now clear that the matter must be decided by the Congress. In view of the critical crude oil situation in the United States the Senate should recognize the economic and environmental superiority of the trans-Canadian alternative to the proposed Alaskan pipeline.

The recent court decision strikes down the argument advanced by the Department of the Interior that only the Alaskan line can be built soon enough to meet our demand for crude oil. This gives Congress the opportunity to give full consideration to both proposals strictly on their merits without being sidetracked by arguments that only the Alaskan line can be built quickly enough to meet the needs of national security. The two routes are now on equal footing in this regard.

On March 5, 1973, Congressman LES ASPIN, along with 41 Members of the Senate and House, sent a letter to the President asking him to order the Interior Department to begin immediate environmental studies of a Canadian pipeline route and open negotiations with the Canadian Government concerning such a pipeline. As of this time the administration has not responded to this joint request.

Although supporters of the trans-Alaskan route have argued that a trans-Canadian pipeline would encounter lengthy procedural delays, there is every reason to believe that the liberal government of Prime Minister Pierre Trudeau would be favorably disposed to consider a Canadian route for transporting the Alaskan oil reserves into the American market. In February 1971, the then Minister of Energy, Mines, and Resources, J. J. Greene, stated that—

> Failure of the United States to adequately consider the Canadian route for Alaskan oil could render a signal disservice to the growth of the western Canadian oil economy.

There are a number of reasons why a trans-Canadian pipeline might prove beneficial to the Canadian economy. Canada's national energy policy has been to export quantities of oil which are clearly surplus to their domestic needs. However, Canada's known reserves—some 10 billion barrels—are limited and the increase in world energy demands has required the imposition of export controls on Canadian oil. On the other hand, Canada's potential reserves have been estimated at 12 times the present known supply, and much of this amount is thought to be located in the MacKenzie Delta region along the path of the proposed trans-Canadian pipeline. In all likelihood Canadian reserves will require the construction of pipelines in the MacKenzie Valley. Cooperation with the United States in construction of a single pipeline serving both the Alaskan and Canadian Arctic would have the major advantage of providing Canada with an economical system for delivery of oil and gas to its own domestic markets.

Earlier this week, speaking before the Lecture Forum Series of the Chicago Council on Foreign Relations, the Honorable Mitchell Sharp, Canadian Secretary for External Affairs, reiterated his government's opposition to the shipment of oil by tankers off the Canadian coast as envisioned by the trans-Alaskan proposal. With reference to the trans-Canadian alternate route he further stated that:

> A decision would need to be taken by the National Energy Board, and if American oil producers should wish to pursue this possibility, I am sure the National Energy Board would be prepared to give consideration to any such application.

The Interior Department must take the initiative now in pursuing negotiations with the Canadian Government with respect to such a pipeline. Failure to do so will only result in further delaying consideration of a Canadian pipeline which is the best remedy possible for future oil shortages and inflated prices for Midwest and east coast consumers.

RESIGNATION OF SECOR D. BROWNE AS CHAIRMAN OF CIVIL AERONAUTICS BOARD

Mr. MAGNUSON. Mr. President, it is with regret that I advise the Senate that a very capable and dedicated public servant has recently left public life after outstanding service to the Nation and to its transportation needs as Chairman of the Civil Aeronautics Board.

Mr. President, recently President Nixon accepted the resignation of Secor D.

Browne as Chairman of the CAB because Mr. Browne has chosen to return to private life. His tenure as Chairman of the Board was marked by outstanding accomplishments in the regulation of the domestic and international air transportation systems and his departure is a significant loss to the United States whom he has served so ably.

I cannot remember any period in recent history in which the Civil Aeronautics Board has achieved so many important advances and has moved forward so forthrightly to deal with the myriad of problems facing air transportation.

While I have certainly not agreed with all the decisions of the Board under Mr. Browne's chairmanship, I believe he and the majority of members have moved ahead decisively to deal with issues expeditiously and with a paramount concern for the best interests of the public which relies on convenient, timely, safe and economical air transport services. His dedication to the public interest and need as distinct from private needs and goals has distinguished him as a regulator in the finest tradition of public service.

The traveling public and the air transportation industry of the United States and the world are indeed going to miss the presence of Secor Browne. He has not been content to simply sit back and arbitrate industry proposals and ideas—on the contrary he and his able staff have seized the initiative on many occasions and moved forward to explore and embrace new concepts and reject old ones in an attempt to keep abreast of the public's growing need for air transportation services.

He has not been afraid to be innovative and bold on occasion when he believed that the public interest required new ideas to deal with emerging problems. Indeed, Mr. Browne's service to the United States at the Civil Aeronautics Board has been very fruitful and productive and I hope the record of achievement he has left there will serve as a benchmark for his successors now and in the future.

Mr. President, if I may take another moment I should like to outline briefly for the Senate some of the significant achievements of the CAB during the last 3 years under Mr. Browne's leadership.

Within its statutory mandates as an arm of Congress the Board acted to insure the public interest would be served and the financial health of the air carriers would be preserved.

Under Browne, since 1969 the Board has:

First. Stabilized domestic airline fares, and completed almost all phases of the most comprehensive passenger fare case in the Board's history—Domestic Passenger Fare Investigation. For the first time the industry is guided by standards designated to maintain reasonable and nondiscriminatory fares for the public and produce reasonable profits for the carriers.

Second. Established the first regulatory Consumers Affairs Office. This has been a notable step. The new office is an excellent point of contact for passengers who either need information or believe they have been aggrieved. In the few years of its existence the Office has been successful in having hundreds of thousands of dollars in refunds made and claims settled.

Third. Received authority from the Congress to reject schedules of foreign air carriers and—by regulation—to reject on-route charters of foreign air carriers in the interest of maintaining the competitive position of U.S.-flag carriers, and the power to suspend international tariff filings.

Fourth. Issued the experimental new travel group charter regulations to meet the developing needs of the mass travel market, and to meet the Board's statutory obligation to make low-cost transportation generally available. This is a very important new development designed to help insure that public needs will be met.

Fifth. Balanced the route, agreement, acquisition, rate and subsidy functions of the Board in such a way as to create a positive climate for airline managements to provide better services for the public and profitable operating opportunities for the carriers.

Sixth. Developed and implemented a new "active" international aviation policy which places foremost emphasis on insuring U.S.-flag carriers a fair opportunity to compete with foreign flag carriers on reasonably equitable terms.

Seventh. Called national attention to the danger to the United States in general and our air carriers in particular if U.S. leadership in aerospace technology passes to other countries by default.

Eighth. Improved the operating authority of local service carriers mainly through expedited procedures.

Ninth. Released a three-volume staff study analyzing the problem of air services to small communities, and formulated a legislative proposal (S. 3460) of the 92d Congress under which the Congress would authorize and fund a limited 3-year experiment to test the feasibility of providing air service to small communities by means of contracts, between the Board and air carriers, awarded through a competitive bidding process.

Tenth. Instituted the Air Carrier Reorganization Investigation which raises significant issues of whether further regulation and legislation may be needed to assure that there is no impairment of air carriers' services or dilution of their resources when air carriers diversify.

Eleventh. Approved a multicarrier agreement on the establishment of a method of systematic reward for information leading to the arrest and conviction of airline hijackers and extortionists.

Twelfth. Renewed transatlantic charter authority held by six supplemental carriers and instituted a proceeding to determine whether the authority for international charter service—other than transatlantic—and for domestic ITC service held by various supplementals should be renewed.

Thirteenth. Adopted regulations, establishing new class of charter known as overseas military personnel charter. Amended charter rules to try to reduce the incidence of charter passenger strandings abroad. Proposed to establish a new class of nonaffinity charter to be known as travel group charters.

Fourteenth. Expanded its economic regulations to allow air taxi operators or commuter airlines to use aircraft with capacity up to 30 passengers.

Fifteenth. Revitalized the Board's enforcement program through vigorous pursuit of: informal measures against violations of laws and regulations; a more effective legislation program; greater liaison with foreign governments on enforcement matters; and establishing of field offices in New York, Miami, Anchorage, and Los Angeles. This has resulted in the conclusion of 1,099 compliance actions through informal means, institution of 55 formal proceedings, issuance of 13 cease and desist orders, filing of three court cases of precedential importance, and collecting a record of $202,850 in civil penalties for violation principally of the Board's charter regulations and of the tariff provisions of the FA Act.

Sixteenth. Strengthened the Board's equal employment opportunity program in line with the EEO Act of 1972 and the President's stated policy of achieving equality of opportunity in Federal employment.

In the 3½ years of Mr. Browne's chairmanship the carriers went from a serious loss position to a modest, but growing profit position. This was accomplished with only a relatively small fare increase.

These are the more significant achievements of the Board in the past 3 years. There are many others of less significance. In all it is an excellent regulatory record, in which the Congress can proudly join. I offer my congratulations to Mr. Browne on a job well done.

EARTHQUAKES

Mr. CRANSTON. Mr. President, the destruction of life and property due to earthquakes threatens the welfare of 72 million Americans. I have introduced legislation to support research that will make it possible to predict the location and time of an earthquake. It is interesting to note that parallel studies are being made by Russian seismologists whose findings are moving us closer to this goal.

Mr. President, articles appearing in the February 12, 1973, issue of Time magazine, and in the February 17, 1973, New York Times discuss this significant contribution to the field of earthquake research. I ask unanimous consent that these articles be printed in the RECORD.

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

THE TELLTALE WAVES

By detecting slight shifts in the tilt of the ground, or leakage of underground gases, or local changes in the natural magnetic field, scientists can determine that dangerous stresses and strains are building up in the earth. Yet they are still unable to predict reliably when or even where earthquakes will strike. Now, as a result of Russian findings in a remote region of Central Asia and a parallel discovery in New York State, seismologists may well have moved a little closer to a long-sought goal: developing an

accurate early warning system for major upheavals of the earth.

That possibility is based upon studies of the two basic types of seismic waves that are given off by all earthquakes: 1) P (or pressure) waves, which alternately compress and expand the earth in the direction of their travel; and 2) S (or shear) waves, which cause motion of the earth in a direction perpendicular to their path. Because a quake's P waves travel through the earth slightly faster than its S waves, they arrive at seismic listening posts ahead of the S waves. While investigating the small tremors that often occur in the Garm region south of the Central Asian city of Tashkent, Russian seismologists were surprised to discover that in the days or weeks before a serious jolt, the relative velocities of the two types of waves changed. The interval between arrival times decreased significantly. Then, just before a big quake, the velocity relationship reverted to normal.

At first, Western seismologists suspected that the change in velocity was peculiar to the geology of Central Asia: it seemed unlikely that the phenomenon could be used as a predicting tool in other quake-prone areas. Yesh Aggarwal, a 30-year-old graduate student of Indian descent at Columbia Unisity's Lamont-Doherty Geological Observatory, did not share the skepticism. As part of his doctoral work, he decided to study the seismic records of the swarms of microquakes that had occurred during 1971 in the Blue Mountain lake region of New York's Adirondack Mountains. Aggarwal's hunch paid off. Writing in *Nature*, he and his associates report that they also found large and significant changes in the relative velocity of P and S waves prior to more serious tremors. Furthermore, they note, the duration and intensity of the effect—which changes the relative velocity of the waves by as much as 13%—was directly proportional to the magnitude of the eventual jolt.

Aggarwal, as well as his mentor, Seismologist Lynn Sykes, thinks the change in wave velocity may be caused by the rapid opening of small cracks in water-saturated underground rock of the fault zone. Because P waves travel swiftly through water, they probably slow down when the voids appear. The S waves seem less affected by the fissuring. Then, as ground water seeps into the cracks, the P waves speed up again Seismologists do not know how widespread the newly discovered phenomenon is, but if it is indeed common to all seismically active areas, it may eventually be used to predict the earth's upheavals—including such disasters as the quake last December that destroyed much of Managua, Nicaragua.

QUAKE-ALERT SYSTEM BY SOVIET CONFIRMED

(By Walter Sullivan)

Soviet observations of a seemingly reliable form of advance earthquake warning for Central Asia have now been found applicable to quakes in the Adirondacks.

The American observations, conducted by a group from the Lamont-Doherty Geological Observatory of Columbia University, have show that the effect recorded by Soviet scientists is not peculiar to the Perm region, north of Afghanistan, as some had suspected.

They have thus raised hopes that the effect, which has been observed three months in advance of a moderate earthquake, will be useful for prediction. However, commenting on the new find, the British journal Nature notes that difficulties and uncertainties remain.

For example, the method depends on the operation of a number of seismic stations in the quake-prone area. And it is not clear to what extent it is applicable to deeper earthquakes.

The method depends on a premonitory change in the relative velocities at which two kinds of earthquake waves travel through crustal rock in the area of an impending quake. The ratio between the two velocities drops, then slowly returns to normal. When it has done so, the quake occurs.

PRESSURE AND SHEAR WAVES

The velocities are those of pressure waves (comparable to sound waves) and shear waves (those producing motion at right angles to the direction of wave travel).

Last spring it was reported, at a symposium on earthquake prediction in Washington, that in the Garm district of Central Asia, Soviet scientists had found that the ratio between pressure wave and shear wave velocities begins to drop three months before a moderate quake and one month before a small one.

The quakes originating beneath Blue Mountain Lake in the Adirondacks were very small, but a similar relationship between intensity and the length of this warning period was the same. From these results, the Columbia team reports in the Jan. 12 issue of Nature, it appears that advance warnings of "months or longer" should be possible for magnitudes greater than 6.

The quake that took 59 lives in the San Fernando area north of Los Angeles in 1971 was rated at magnitude 6.6.

As explained yesterday by Yash P. Aggarwal of the Columbia team, attention was drawn to Blue Mountain Lake by the long-range detection of two small quakes there in May, 1971. Six portable seismographs were set up in the area and began recording thousands of tiny quakes—far too weak to be observable except with instruments.

CHANGES MONITORED

These quakes made it possible to monitor changes in relative velocities of pressure and shear waves through the rock in that area. Quakes of moderate intensity were recorded on June 21, July 10 and July 27, 1971. Before each of them struck, there was the characteristic dip in the ratio between these velocities.

It was suspected that the drop in ratio might be caused by cracking of the deep rock under stress and that the return to a normal ratio might come about as water seeped into the cracks. It is believed that increased water pressure within rock pores makes the rock more amenable to fracture and thus generates earthquakes.

This, for example, is the explanation advanced for the occurrence of quakes east of Denver, Colo., in the Nineteen-sixties as poisonous waste water was pumped down a deep well at the Rocky Mountain Arsenal. It is also believed to account for quakes generated at the Rangely Oil Field in western Colorado, where water is pumped down wells to drive oil up within reach of other drill holes.

The Adirondack quakes originated at depths of two miles or less and those in Central Asia about six miles down. These are relatively shallow quakes. Those along the San Andreas Fault of California tend to occur about 10 miles below the surface.

"PERPLEXING OBSERVATION"

"Perhaps the most perplexing observation," according to the Columbia group, is that the extent of the change in velocity ratio is roughly the same—about 13 per cent—regardless of the magnitude of the impending quake. However this phenomenon should make it possible to study the effect in detail, using small explosions.

Repeated explosions, the authors point out, could also be used for "predicting earthquakes in areas where it is not convenient or possible to use small earthquakes." In addition to Mr. Aggarwal the authors are Dr. Lynn R. Sykes, John Armbruster and Dr. Marc L. Sbar.

In its editorial, Nature notes that earthquake prediction would be of limited value to a city like Managua, Nicaragua, where thousands were killed by a quake last month, if its buildings are so vulnerable to tremors. What use would it be, it says, "if afterwards there is no city to which the temporarily evacuated inhabitants may return."

The editorial therefore emphasized improved quake-proof construction. But others have also expressed concern at the social, economic and political problems that would arise if quake predictions could be made. How does one evacuate a city like San Francisco without producing chaos?

Hence attention has been turned, as well, to the possibility of water injection as a means of causing small quakes and relieving strain to avert a major one. However such a quake prevention is still no more than a distant possibility.

TRIAL OF PERSONS CHARGED WITH GENOCIDE

Mr. PROXMIRE. Mr. President, one of the concerns expressed by opponents of the genocide convention is that American citizens charged with genocide abroad would be subject to extradition from the United States to the accusing country.

Most recently this fear has been expressed by the journalist Dan Smoot in an article which appeared in the March 1973, issue of American Opinion magazine. Mr. Smoot posits the following situation:

> Suppose an American, while on a foreign trip, has business that takes him to a Communist country, or to some country like Sweden, or most of those in Black Africa and the Arab world, where hostility to the United States is almost as virulent as in Communist nations. After he returns home, he is charged in one of those countries with having committed genocide while there. The charge would need be no more specific or substantial than that he had caused "mental harm" to some member of a national, ethnical, racial, or religious group, with intent to destroy that group in whole or in part.

What, then, would happen to such a person who is charged abroad after he has returned to this Nation. Mr. Smoot states that nothing more substantial than mental harm or intent to commit genocide is necessary for extradition. The Senate Committee on Foreign Relations has gone to great lengths to explain the meaning of "mental harm" and "intent." There is nothing unsubstantial or capricious about the understanding which is attached to these words as Mr. Smoot suggests. In any event, fears that ratification of the Genocide Convention will force the United States to extradite its citizens to foreign countries where they will not be protected by our constitutional safeguards are groundless.

Such a concern overlooks several facts. Extradition is a common practice among nations. The United States is party to many extradition treaties. All that the Genocide Convention says is that genocide is to be added to the list of extraditable offenses in the treaties now in force. Thus the United States could not extradite an American to nations with whom we do not have an extradition treaty.

Under the double-jeopardy clause of the Constitution, which is controlling over all treaties, the United States could not extradite anyone who had already been tried in this country. Likewise it is

common practice for the United States not to grant extradition if it is felt that the person involved will not be able to receive a fair trial.

These three points provide adequate protection for every American from capricious and unwarranted extradition to a foreign nation.

The Senate Foreign Relations Committee has recommended an understanding of article VI of the Genocide Convention—which provides for trial of persons charged with genocide—that makes clear our position in this matter. This reservation states that nothing in article VI shall affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

Other nations of the world will respect this understanding because they have the same understanding of article VI. In December 1948 the Legal Committee of the United Nations General Assembly adopted the following resolution:

The first part of article VI contemplates the obligation of the State in whose territory acts of genocide have been committed. Thus, in particular, it does not affect the right of any State to bring to trial before its own tribunals any of its nationals for acts committed outside the State.

The Genocide Convention is not intended to deny the American people their rights, nor to destroy our Constitution, nor to subject us to any foreign power. It does not do any of these things. The Genocide Convention is to protect the people of the world, and that includes the American people, from the horrors of mass murder. If the Senate ratifies this treaty and if the Congress enacts the implementing legislation, then the United States will have done its share to prevent this crime from occurring.

Mr. President, I call upon the Senate to ratify the Genocide Convention.

DEATH OF ALICE O'LEARY RALLS

Mr. MAGNUSON. Mr. President, recently we of the State of Washington, who have lived in Washington, D.C., for many years, have suffered a great loss due to the untimely death of Alice O'Leary Ralls.

Alice Ralls, who died on March 20, was one of the outstanding civic leaders, one of the outstanding attorneys, and one of the outstanding figures of our State. Born in Wallaceburg, Ontario, Mrs. Ralls came to Seattle as a child, was graduated from Lincoln High School and the University of Washington Law School, and was admitted to the Washington State Bar in 1931.

After distinguished service in the legal department of the Public Utilities Commission, Mrs. Ralls served as deputy prosecuting attorney of King County and director of the newly established family court. As its original director, she served for several years formulating its policy and permanent direction.

She was then made managing director of the Washington State Bar Association, the first attorney to hold that position, and continued in that position until her retirement in June of 1972.

Along with her outstanding work as a member of the bar she became chairman of the King County Commission on Alcoholism and was president of the Washington State Council on Alcoholism, and in 1969 she received an honored citizen's award in recognition of her work on alcoholism.

Mrs. Ralls was a member of the Seattle-King County Bar Association, the Washington State Bar Association, and the American Bar Association, and was vice president of the National Association of Bar Executives. As a tribute to her work in the bar, six past presidents of the association acted as her pallbearers.

Alice and her husabnd, Charles C. Ralls, have been associated with me throughout virtually my entire legislative career. Mr. Ralls served as deputy prosecutor of King County and after two terms of service in the U.S. Marine Corps, was twice national commander of the Veterans of Foreign Wars. More recently, he was regional director of the U.S. Office of Civil Defense and presently is a district judge in King County, Wash.

Almost the entire Washington delegation are members of the Washington State Bar Association, and I am sure they and Senator JACKSON join with me in expressing to Charlie Ralls and his family our sincere condolences and it is with heartfelt sorrow that we mourn Alice's loss.

I ask unanimous consent to have printed in the RECORD an editorial published in the Washington Teamster of March 23, 1973.

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

ALICE O'LEARY RALLS

The legal profession and public service lost a real champion this week in the death of Alice O'Leary Ralls.

Mrs. Ralls was a lawyer, and had recently retired as executive director of the Washington State Bar Association. She was also the first chairman of the King County Alcoholism Commission.

Whatever Mrs. Ralls did it was with verve and dedication. She would always see a task through, and truly believed in helping others.

The Joint Council of Teamsters had a good friend in Alice O'Leary Ralls. We will miss her.

THE MYTHS OF THE BUDGET—III

Mr. FULBRIGHT. Mr. President, today I continue my analysis of the impact of the administration's budgetary policies and proposals on the State of Arkansas. In my previous statement I examined such programs as Hill-Burton hospital construction funds, medicare, regional medical program and other health programs, and education.

VII. LIBRARIES

It is difficult to believe that anyone could oppose funds for libraries, yet the administration would terminate Federal support for all library programs including those authorized under the Public Library Services and Construction Act, title II of the Elementary and Secondary Education Act and title II of the Higher Education Act. The administration had already moved to kill other library programs. Is this an American form of book burning?

Arkansas is entitled to about $2 million in assistance to public and school libraries under existing programs.

According to Mrs. Karl Neal of the Arkansas Library Commission, the commission's statewide program may be reduced by half if Congress accepts the administration's budget proposal. Among the programs which would be eliminated or curtailed would be services for the blind and handicapped persons and the bookmobile services.

Mrs. Mary Schilling, librarian at the Arkansas Children's Colony, wrote me about some of the programs which would be hurt:

The State of Arkansas has a rather unique library program, conducted at the Arkansas Children's Colony, for the mentally retarded. Federal aid through the LSCA Fund has enriched the Colony library program immeasurably through the purchase of materials that enable the young people in residence to experience the pleasures of sharing books in a realistic manner—a "normal experience"—not everywhere available to mental retardates.

If LSCA funds are cut off, the state library program will suffer drastically through reduced staff in multicounty libraries, in the processing department of the state library, in reduced maintenance of bookmobiles, reduced services to state institutions, reduced service to the blind and handicapped as well as a resultant reduction of service to the general public . . .

Mr. President, I ask unanimous consent to have printed in the RECORD at this point articles from the Arkansas Gazette of February 10 and 24 the Paragould Daily Press of February 3, and the Arkansas Democrat of March 25.

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

[From the Paragould (Ark.) Daily Press, Feb. 24, 1973]

LIBRARY FUND SLASH HURTS AREA SERVICE

(By Ted Wagnon)

"No bookmobile," may become a reality for area library patrons if President Nixon succeeds in killing federal aid to libraries.

Kathleen Sharp, librarian for the Northeast Arkansas Regional Library, said Thursday the budget cut could cost the library "$2,000 in operation expenses for the bookmobile, $7,500 in operating expenses and $12,000 in salaries," per year.

Nixon proposed cutbacks in federal aid to to libraries in his recently-introduced 1974 budget. Other domestic programs have been effectively killed by administrative "impoundment" of congressional appropriations.

"We serve Greene, Clay and Randolph counties through the bookmobile," Miss Sharp noted. "Not only would we face the risk of losing it, we would lose three full-time employees due to salary cuts."

State aid in cataloging, also funded by federal monies, would cease, Miss Sharp said. This means the local library would have to hire someone with training in library science to prepare books for library shelves.

"This could mean an additional $7,500 in salary and materials," Miss Sharp said.

Another library service threatened is the "talking book" machine. Miss Sharp explained that the talking book is actually a slow-speed record player and recordings of famous literature. The machine is designed to aid disabled people who, for whatever physical reason cannot read.

Also affected will be library programs in public schools, Miss Sharp said it was her

understanding that the veto included the Elementary and Secondary Education Act (ESEA), which provides a variety of title funds to public schools.

Willis Alderson, Tech superintendent, said he wasn't sure whether ESEA had been affected by the president's move.

"I can tell you what would be the impact, should we lose our ESEA Title II funds," Alderson said. "Last year, we received $2,811 for our library. Most of these funds were used to purchase books and materials."

Alderson said if federal funds were ended, "we could not let the library suffer such a loss. We would have to divert the money from district funds; we just couldn't let the library drop like that."

State schools receive Title II funds on the basis of enrollment, Alderson said, so the exact amount Tech receives could vary each year. State schools were notified in November of a 13.5 percent decrease in Title I funds. Title I funds support programs aimed at disadvantaged children.

The American Library Association this week denounced Nixon's proposal, saying he has "shown he claims the right to dictate educational priorities for the nation . . . this annihilation of needed and effective programs would result in devastating reduction or elimination of services to millions of library users."

A total of $195 million is at stake, library lobbyists claim, due to Nixon's veto of two money bills for the Department of Health, Education and Welfare.

[From the Arkansas Gazette, Feb. 10, 1973]

LIBRARY COMMISSION FACES CUTBACK IN STATE PROGRAM

The Arkansas Library Commission may have to reduce its statewide program by half if Congress accepts a Nixon administration budget proposal to end all aid to libraries in fiscal 1974, according to Mrs. Karl Neal, the Commission's librarian and executive secretary.

The proposal basically would eliminate the Library Services and Construction Act of 1965, which has given more than $1 billion to state libraries.

Mrs. Neal said the Commission received about $580,000 in fiscal 1973, along with $675,000 in state funding. She said that federal funds would run out in June, and unless Congress decides not to follow President Nixon's proposed cut or unless the state can provide additional funds, as many as 25 Commission employes may be released and several programs eliminated or curtailed.

She said these programs would include services for the blind and handicapped, for children, and persons in state institutions who benefit from special library services.

She said Governor Bumpers had asked all state agencies facing federal fund cuts to present their budgets to him to see what programs the state could save, but that she did not think the state would be able to totally match the lost federal money.

Several Commission members and other Arkansas library officials attended the American Library Association meeting in January at Washington, in which the Association adopted a resolution calling for a lobbying effort to restore lost library funding.

In a news letter Mrs. Neal received from Representative John Brademas (Dem., Ind.), Brademas said he was urging Congress to provide sufficient aid for libraries.

Brademas, chairman of the House Education Subcommittee, which has jurisdiction over library programs, said 18,000 school districts and 2,500 colleges would have to curtail their library services and acquisition programs if federal funds were cut.

LIBRARY GROUP RESOLUTION OPPOSES PROPOSED CUTBACKS IN FEDERAL FUNDS

Friends of the Library, a private, nonprofit organization which helps support the Little Rock Public Library, has adopted a resolution opposing proposed cutbacks in federal funds for libraries.

Under President Nixon's 1974 budget proposals, public libraries in Arkansas would lose about $700,000 in federal money used for paying employes, buying books and construction. The Little Rock Public Library would lose about $60,000.

At a press conference Friday at the Library, Mrs. John Reid, president of the Friends of the Library, and Rabbi Ira E. Sanders, president of the Library Board of Trustees, said they were sending copies of their resolution to the Arkansas congressional delegation and to President Nixon.

The resolution says that since libraries make "vital contributions to the literary and cultural life of a community," they should not have their funds cut but instead should "be given a significantly high priority in the realm of federal funding."

The funds which Mr. Nixon proposes to cut are given through the United States Health, Education and Welfare Department. The funding vehicle is the federal Library Services and Construction Act.

The last full year of funding under that Act was the 1971–72 fiscal year, when the Little Rock Public Library was able to use it to purchase $30,000 worth of books through the Arkansas Library Commission. This represented between 35 and 40 per cent of the Library's book purchases in a year.

The Little Rock Library paid $27,000 in salaries to four persons with federal money that year and also spent $2,500 through the Act to operate the bookmobile.

The Act expired last year when Mr. Nixon refused to sign an appropriation that Congress passed. However, funding continued when Congress passed a "continuing resolution." That resolution will expire next Wednesday.

Mrs. Alice Gray, librarian at the Little Rock Library, said the bookmobile program would suffer most by the cut. She said the two operators of the bookmobile are paid with federal funds, as are a resource librarian and secretary. She said the bookmobile was purchasd with federal funds two years ago.

Rabbi Sanders said the Little Rock Library would suffer more than other libraries of comparable size since its budget of $322,000 was about half that of other cities the size of Little Rock. He said an appeal would have to be made for private funds if Mr. Nixon or Congress did not renew the funds.

"From the beginning of our history, our ancestors have regarded libraries as a most important and valuable trust, and nobody will deny the importance of books in the progress of our civilization," Mrs. Reid said.

"We fear that a result of ignoring library needs in the national budget will be, in addition to having fewer books and the necessity of curtailing current programs, the downgrading of the importance of culture in the development of our communities. We find this most regrettable, and appeal to our Congressmen and the President to restore library funds."

[From the Arkansas Democrat, Mar. 25, 1973]

ARKANSAS ATTENDS LIBRARY BRIEFING

Mrs. Karl Neal, librarian at the State Library Commission was among 50 librarians who attended a briefing called by the federal Office of Education March 20 in Washington, to discuss termination of funding of library programs.

Funds which come from the Library Services and Construction Act (LSCA), the Elementary and Secondary Education Act and the Higher Education Act will be terminated June 30, under current administration plans.

Arkansas received more than $700,000 in 1972 from LSCA, which is authorized by law to continue through June 30, 1976, according to Mrs. Neal. The $700,000 was used to provide salaries, books and library materials, bookmobiles and maintenance and to construct a new public library building at Paragould, she said.

The fund cut-off would cause the state Library Commission to lose 30 employes in county and regional public libraries statewide and may put an end to regional bookmobile service if revenue sharing funds are unavailable, Mrs. Neal said.

Staff reductions would mean the loss of five employes at Little Rock, four at Jonesboro, Fayetteville and Dardanelle, three at Paragould and Batesville, two at Helena and Magnolia and one each at Harrison and Hope.

Mrs. Neal reported that the librarians representing the 50 states expressed "unanimous dissatisfaction with peremptory steps to withhold funds appropriated by Congress and moves by the administration to end June 30, 1973, a federal relationship with libraries dating back to 1876."

The librarians taking part in the meeting issued a statement calling the administration's action "appalling" in proceeding with the fund cut-off decision before Congress had time to consider the President's budget recommendation.

VIII. SOCIAL SERVICES AND OEO

Mr. FULBRIGHT. Mr. President, reductions through proposed new regulations for social service programs and through the elimination of many programs heretofore administered through the Office of Economic Opportunity would have a severe impact on Arkansas.

The OEO cuts would mean a loss to the State of at least $6.6 million and seriously endanger another $12 million being spent on poverty and manpower programs.

As for the social service losses, Gov. Dale Bumpers said the amount lost by the State Department of Social and Rehabilative Services alone would equal half the State's general revenue sharing funds. The losses include $1.5 million for mental health, $5.5 million for mental retardation, and $1.6 million for juvenile services.

Governor Bumpers said:

The facts are that at least 75% of Arkansas' existing social service programs are either closing their doors, or are in the midst of a financial crisis.

In Pulaski County alone the loss in social services projects will be $1.3 million, including funds for child care, residential treatment, services for the handicapped and mentally retarded, rehabilitation and counseling.

Among the OEO programs there are some which probably should not be continued, at least in their present form. However, many of the OEO activities are worthwhile and deserve continuation. Their elimination would have what Arkansas OEO officials have called a "devastating human and economic impact."

Mr. F. M. Holt of Warren, Ark., a banker who has served on the board of the community action program in his area, says

I think that I am in a position to speak with authority on the fine work that has been accomplished for the poor and low income people not only here but throughout the country and by reason of this, it grieves me very much to know that this is being done away with and nothing being offered to take its place.

Mr. President, I have received a number of letters which testify to the value

of some of these programs much better than I can, and I ask unanimous consent to have a small selection of them, including letters from the mayor of Pine Bluff and the secretary of the Trumann Chamber of Commerce, printed in the RECORD at this point, along with articles from the Arkansas Gazette of February 10, 15, March 3 and 8, and the Paragould Daily Press of February 8.

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

PINE BLUFF, ARK.,
February 13, 1973.

Hon. J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: I am very much concerned about the President's intention to discontinue the Office of Economic Opportunity. I think the OEO has certainly been good to Arkansas and especially to Pine Bluff.

Through this office we have been able to provide much needed assistance to people of great need. The OEO has also been of much help to the City. We have obtained use of various federal surplus articles, through OEO assignment, such as dozers, trucks, trailers, tractors, etc., which I hope in the event OEO is discontinued, will become the property of this City. We desperately need this equipment.

I hope you will look into this situation at once.

If further information is needed, please advise me immediately.

Sincerely,

AUSTIN T. FRANKS,
Mayor.

TRUMANN CHAMBER OF COMMERCE,
Trumann, Ark., February 22, 1973.

Senator J. WILLIAM FULBRIGHT,
Senate Office Building,
Washington, D.C.

DEAR SIR: It has come to our attention that recent proposed changes in policy at the national level will affect a local Day Care program. This program is administered by Crowley's Ridge Development Council, a Community Action Agency in Jonesboro, Arkansas.

We feel that this Day Care program is a must in this area, for these reasons; (1) there is no public kindergarten program in Arkansas, though we understand there may be in the distant future; (2) there are three large industries located in Trumann, including the "world famed" Singer Company, one of which, namely, Salant and Salant, Inc. employs almost 90% women, and (3) it is a safe statement that Trumann has more industrial employees per capita than any city anywhere in the country.

For these reasons, along with others too numerous to mention, we respectfully request your cooperation and aid in saving this worthwhile and needed service.

Our thanks and appreciation to you for whatever assistance you may deem advisable.

Yours sincerely,

F. R. BUECHNER,
Secretary-Manager.

OAKLAWN UNITED METHODIST CHURCH,
Hot Springs, Ark., February 9, 1973.

Hon. J. WILLIAM FULBRIGHT,
New Senate Office Building,
Washington, D.C.

DEAR SIR: We are very much disturbed at the announcement that the Community Action Program is to be discontinued. This program for the needy has been very helpful to many worthy individuals and we urge that you use your influence to see that such a worthy program reaching so many needy will be continued.

We have written to other Arkansas people in Washington who have our welfare at heart, and we hope something can be done to keep this program going. Please do all that you can in this matter as the need in this area is great.

Thank you for your courtesy and interest.

Sincerely,

THE POLK-POTTER CIRCLE.

BONO, ARK.

DEAR SENATOR FULBRIGHT: As a voter and taxpayer I would like for you to use your influence to help us keep CRDC and our service centers. Without them our elderly, sick and illiterate have no one to help them. Why should our money be spent to rebuild foreign countries while depriving our needy of the only hope they have of ever climbing out of poverty. How can a man like our President who has never been rained on know the real meaning of poverty, or know what it is like to almost reach the top and have the ladder pulled from under you?

To understand you would have to see the hope when someone has got his first steady job and knows his family will have food every meal and his meager day to day existence is over. The same people who helped put you in office now need your help.

Thank you,

Mrs. JEWEL WEAVER.

BLYTHEVILLE, ARK.

DEAR SIR: I am 83 years old and I cannot see, so I must get someone to write for me, but I am very concerned about the social services in our community being cut out. It seems that we old people have a hard enough time—I cannot go to town to pay my bills or buy groceries. I was in the hospital three times last year. Without these community servants we will have to do without services that make life normal for us. We do not have decent nursing homes, so there is no place for us in a society of plenty, but there is help for Vietnam. I hope you see fit to fight for us here at home.

Sincerely,

——— ———.

SWEET HOME, ARK.

DEAR SIR: I live in a little town named Sweet Home, Arkansas, and until such agencies as the OEO, EOA, Vista, Federation of Southern Coops and many others came into existence we had nothing to depend on but small farms. We planted in spring but reaped little at harvest time, and the winters were long, hard and cold.

But today we read and hear that these agencies that have done so much to motivate the people in so many ways and gave jobs to so many people.

We were motivated to the extent that we bought an old delapidated elementary school for our community center in which we have pre-school, study center Bible classes, hot lunch projects for the elderly, ceramic classes and recreation for young and old despite having to move from place to place when it rains.

We hope to get a new building because we need a clinic badly, a place to quilt and other things that we may serve our community better. We want to stay here and we plead with you to give all the support that we can find to help save these agencies we so desperately need for advancing instead of going back where we came from.

May God give you the strength and courage to speak out.

Thanking you in advance, I am

Sincerely yours,

Mrs. ZELMA LEE MILLER.

TRUMANN, ARK.

DEAR SENATOR FULBRIGHT: I am a divorcee and am writing you concerning the day care center. I have two children—one five years old and one three years old. I work at the Singer Company and my salary is about $75 a week. I pay $53 a month rent and my utilities. It sure does not leave me much. The day care has helped me to where I didn't have to go to the welfare for aid for the children. I have been in the hospital for surgery and have had to have aid from the welfare. The day care center is the best thing that could have ever happened to the poor people. I feel like my children are getting a chance at life now. Why is everyone trying to take away things that are beneficial to poor people. I've always tried to make a living without having to depend on anyone. But there are a lot of things we just can't do on our own—we have to have help from others. We the people helped you get in office. Will you try to help us, the poor people, in this matter.

Sincerely yours,

——— ———.

UNIVERSITY OF ARKANSAS,
Fayetteville, Ark., February 19, 1973.

Hon. J. WILLIAM FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR FULBRIGHT: There are many reasons why I cannot support the dismantling of the Office of Economic Opportunity as is proposed by President Nixon. Since the days of the initiation of O.E.O., I have worked directly and/or indirectly with one or more aspects of the Community Action Programs. First in Phillips County, Arkansas; then in Chicago, Ill.; Urbana-Champaign, Illinois; and now in Fayetteville, Arkansas. Though I was never employed by O.E.O., my external vantage view of the operation has afforded many insights into both positive and negative functions of the organization.

Currently, I serve as a member of the Board of Directors of the Washington County Economic Opportunity Agency. The annual report of this agency provides concrete evidence of effective intervention in the lives of local citizens who are handicapped by socio-economic differences. Though there is evidence of less success in some aspects of the operation, the benefits to this segment of the population, (those handicapped by socio-economic differences) which in turn accrue to society as a whole are immeasurable.

I strongly urge you to use your influence in seeing that the Community Action Program continues to be available as a viable means of helping people help themselves.

Sincerely yours,

REBA J. DAVIS,
Assistant Professor, Home Economics Education.

FEBRUARY 15, 1973.

HON. J. W. FULBRIGHT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR FULBRIGHT: I have been very disturbed since the President announced a complete "slash" of the Office of Economic Opportunity.

One cannot make decisions to please the whole United States but some consideration should be made when our help for the poor is completely taken away from them.

Here in Greene County, Arkansas the programs operated by Crowley's Ridge Development Council, Inc. which includes Greene, Craighead, Poinsette and Jackson counties through the O.E.O. has assisted the poor, sick, aged, unemployed, disadvantaged children, mentally disturbed and etc.

Through the Emergency Food & Medical Program, last year garden seed was furnished to 487 families for a self-help project so they could grow their own food, can and preserve food or later use. For those who could become eligible for food stamps, help was given in showing the people how to become participants of the program and in extreme emergency, assistance was obtained to secure the purchase cost of the food stamps

to enable a family to have food which might not have food because of a disabled parent with small children. In some instances help was needed until employment was found which has also been a part of the services of O.E.O.

Children have been clothed so they could attend school from clothing donated to the Neighborhood Service Centers. The Neighborhood Service Centers have rendered services such as transportation for the poor, sick and aged for medical help.

The Day Care Center has assisted mothers by keeping her children without charge so she might work to enable her family to maintain a standard of living which they could not have otherwise. The Head Start has given the poor child an opportunity to become aware of school so it might have the knowledge or advantage of the more fortunate child when it starts to school.

The Neighborhood Youth Corps has given many boys and girls an opportunity to finish school by helping them obtain employment to enable them to purchase clothing and books or in some instances even help a younger brother or sister to stay in school.

Persons have been helped to get vocational training at Cotton Boll Vocational School at Burdette or Delta Vocational Technical School at Marked Tree so they could secure meaningful employment and not become a participant of Social Services.

The Alcoholic Program has worked with the sick alcoholic to help rehabilitate the man or woman to overcome their problem and be a "breadwinner" for their family which has been neglected because of the alcoholic problem.

The Craft Program enables the low-income to make hand made items to be sold through the Craft Store in Jonesboro. This may be someone confined to the home that can supplement their income to help meet the needs of their family. Also through the Craft Program six rural community ladies are employed to work at a small factory at the Light Neighborhood Service Center. They manufacture golf club covers and golf bags. One worker is a mother of seven children who had never earned wages other than farm labor.

Please sir, keep in mind I have tried to just outline some of the services that have been rendered by O.E.O. in Green County. All these people assisted are *our poor people* who meet a poverty income guideline.

Should we forget our poor people? Will you consider the poor people of Arkansas and the United States who need your help? Please remember the Office of Economic Opportunity has worked for these people.

Yours very truly,

ROSE MARY WHITE.

PARAGOULD, ARK.

CONWAY, ARK.,
March 6, 1973.

Senator J. W. FULBRIGHT,
New Senate Office Building,
Washington, D.C.

DEAR SENATOR FULBRIGHT: Thank you for your response to my letter concerning Presidential impoundment of funds. I feel certain, then, you must share my concern over recent regulations issued by the HEW Secretary that pertain to federal assistance to day care centers, mental health centers, and services to the retarded.

Your visit to the Kr.mer School in Little Rock no doubt indicated to you how much can be done for preschoolers. We have such a day care center in Conway which provides 10 hours of care a day for about 35 children. Under the proposed HEW restrictions, only *welfare* children can receive federal assistance. We have 12 such children. All the others come from poor families struggling to get ahead, often with both parents working. These are the ones for whom this center makes a real difference in the quality of life they can provide for their children. To force them back into private nurseries would, in most cases, *make working unprofitable* for the mother. Some would probably return to welfare. Surely this is *false economy.*

Please, please use your influence to see that these restrictions on Titles IV–A and B and XVI of the School Security Act do not go into effect. Arkansas depends on this federal assistance for much of its service to the poor. Thank you.

Sincerely yours,

Mrs. GAIL S. MURRAY.

FIRST NATIONAL BANK,
Warren, Ark., February 16, 1973.

Hon. J. W. FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SENATOR: I am writing to you with reference to the Office of Economic Opportunity of which the President seems determined to dismantle. I have personally been very much interested in the operations of this agency ever since it started having served on the original Board of Directors of our community action program in this area and also occupied the office of Treasurer for some five years. By reason of this, I think that I am in a position to speak with authority on the fine work that has been accomplished for the poor and low income people not only here but throughout the country and by reason of this, it grieves me very much to know that this is being done away with and nothing being offered to take its place.

I am sure you saw the map of Arkansas in the paper a few days ago which showed how much money was going to be taken from Arkansas if and when this work is discontinued. I am hoping that some pressure can be brought to bear by Congress so that this work can continue. I also trust that you will read the editorial in this morning's Gazette which has to do with the proper way of honoring the memory of President Johnson.

I shall be glad to hear from you on this and with the hope that you will do all that you can to keep this program alive and going.

With kindest regards, I am

Yours truly,

F. M. HOLT,
Chairman Emeritus.

[From the Arkansas Gazette, Feb. 10, 1973]

NIXON OEO CUTS COULD COST STATE $18.6 MILLION, OFFICIALS ESTIMATE

(By Bob Stover)

The state Office of Economic Opportunity announced Friday that President Nixon's proposal to eliminate the OEO would cost the state at least $6.6 million and seriously endanger another $12 million which is being spent on poverty and manpower programs.

Mr. Nixon's proposed 1974 fiscal budget, if adopted by Congress, would have a "devastating human and economic impact" on Arkansas, Robert L. Whitfield, state OEO director, and Bobby Yopp, president of the Arkansas Community Action Agency Directors Association of OEO, said in a joint statement at a press conference.

Whitfield said his office already has received guidelines to close out the program when formal word comes. At least one program, the New Careers program of the Economic Opportunity Agency of Pulaski County, has received formal word that it will not be re-funded. The other programs are basing their chances on Mr. Nixon's budget message, which Yopp said indicated most of the programs would not be re-funded.

He noted that Mr. Nixon said many of the poverty programs would be taken off the federal budget so the state and local governments could pick them up with "special revenue sharing." Yopp said Arkansas would be hurt if this is adopted because revenue sharing funds are given back to state and local governments on a formula related to how much the area paid in taxes.

"Under this system, Beverly Hills, Cal., could have all the poverty programs they want, but they don't need them," Yopp said. "We do." He said that through federally controlled programs, Arkansas has always received several times the money it paid to the federal government in taxes.

He also said local and state governments would not be obligated to use the money for poverty programs.

"There would be categorical grants, but they wouldn't get as specific as saying 'Use this for Head Start,'" Yopp said. "They would give them the revenue sharing in say, education, and the local governments could use it in any form of education."

Yopp also questioned the speed with which the special revenue sharing could be enacted. He said there might be a delay of a year or more between the end of the current fiscal year and the time it takes for the local governments to start programs—if they ever do.

After the press conference, directors of the 19 Community Action Agencies in the state met with Whitfield and appointed a committee to prepare plans in case Mr. Nixon's proposal becomes reality. The plans will be directed toward the state government and what kind of financial help it can provide in taking up OEO programs.

WOULD LOSE 14 PROGRAMS

Under Mr. Nixon's proposal, Arkansas would lose 14 programs founded by OEO and operated by Community Action Agencies. These programs initiated by the Community Action Agencies involve about 160,000 persons, Whitfield said, and represent an economic investment of $6.6 million annually.

In addition, OEO no longer would be able to sponsor programs funded through the Labor and Health, Education and Welfare Departments. Those Departments are funding 10 programs through OEO, making the total budget for the state OEO and its Community Action Agencies about $19 million.

"Some of these programs, such as Neighborhood Youth Corps and Head Start, are expected to continue, but they will not be continued within the framework of the OEO-Community Action Agency framework which makes it possible for communities to determine how they are run," Whitfield and Yopp said.

Whitfield and Yopp urged that Arkansans write their Congressmen expressing support for OEO.

"We don't think Arkansas can afford to abandon the antipoverty effort, which by helping people help themselves provides a substantial contribution to the over-all economy—and we don't think the majority of our citizens, once they become aware of exactly what these massive slashes mean to them and their fellow citizens, want to abandon the effort that simply helps people help themselves," the statement said.

PLAN TRY TO SALVAGE ANTIPOVERTY EFFORT

They said OEO and the Community Action Agencies were going "to do what is possible" to salvage the antipoverty effort in the state. They said Mr. Nixon has indicated the federal government would be backing off from the War on Poverty started by President Lyndon B. Johnson.

Whitfield said Arkansas had 300,000 fewer poverty-level residents in 1970 than it had in 1960. OEO started here in 1965. "We do not claim responsibility for that large reduction, but we believe we can say with confidence that literally thousands of Arkansans have won out in their fight against

poverty with opportunities we have produced," the statement said.

The statement said there still were about 500,000 persons below the poverty level in Arkansas.

"It is difficult to measure success in something like this," Whitfield said. "You don't bring people out of poverty like a car on a finishing line, and this has been one of the problems. The people in the Nixon administration want to see something for their money and you can't see relief, hope and that sort of thing

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[From the Arkansas Gazette, Feb. 10, 1973]

CUTS MAY AFFECT 24 CAA PROGRAMS

There are 24 different programs operated by Community Action Agencies of the state Office of Economic Opportunity.

Robert L. Whitfield, director of the state OEO, and Bobby Yopp, president of the Arkansas Community Action Agency Directors Association, said Friday that all the programs were seriously endangered under President Nixon's proposal to dissolve OEO.

Fourteen of the programs are funded directly through OEO. Ten others are funded through the United States Departments of Labor and Health, Education and Welfare with OEO directing the programs.

None of the 19 state Community Action Agencies operates all of the programs, but at least one agency operates each program.

From a list provided by the state OEO, following is the name and description of each program.

OEO-FUNDED PROGRAMS

Job Development. It entails employment assistance, referral, job development and job expansion, all aimed at getting persons into jobs. It has helped 12,400 persons get jobs this year.

Public Services Careers. Training and employment that helps former unemployables develop job potential. Two agencies have the program and have trained 71 persons.

Economic Development. This entails creating businesses and getting businesses to locate in rural areas. Projects include sorghum mill, cucumber production, cabinetmaking, and plant acquisition. The number of persons it has served was not available.

General Services. This means informing persons of their eligibility in certain programs and helping them qualify for the programs such as food stamps. This service also provides routine transportation to the elderly and isolated, 57,659 persons.

General Community Development. This provides transportation, meeting places for neighborhood groups and recreation, all in poor neighborhoods.

Housing. Includes helping persons repair unlivable houses and buy new houses with low-interest, long-term loans. 2,159 persons. (More than $15 million in housing has been produced during the last year with a budget for this program of $251,364.)

Senior Opportunities Services. This is an income supplement program, which includes helping market crafts handmade by the elderly and teaching the elderly skills—sewing for instance—so they can supplement their income. 6,380 persons.

Co-operatives. Includes vegetable growing co-operatives, the raising of feeder pigs and other food-producing efforts, 500 persons.

Legal Aid. Provides legal assistance to the poor. 17,375 persons.

Health and Medical Services. Provides doctors' fees and pharmaceutical supplies and helps poor persons get into a hospital in certain cases. 11,681 persons.

Emergency Food and Medical Services. Provides food and medical services to protect from possible malnutrition and starvation. 25,569 persons.

VISTA Support. Provides project money for VISTA workers who need the money to get a project started. It has helped many of the 135 state VISTA workers.

College Student Co-ordination. Helps college students become aware of the problems of poverty and encourages them to volunteer for projects like breakfast programs for children. 100 persons.

Administration. Hiring of executive directors of CAAs, deputy directors, bookkeepers, accountants and other administrative positions. 144 persons.

LABOR, HEW PROGRAMS

Operation Mainstream. This program tries to reach the chronically unemployed, 22 years or older, to place persons in employment with a nonprofit agency. 450 persons.

Concentrated Employment Program. Provides training for the unemployed. 450 persons.

New Careers. This program accepts unemployed and underemployed persons and places them in nonprofit institutions where they receive career training. 97 persons.

Summer Neighborhood Youth Corps. This program is aimed at getting 16 and 17-year-old dropouts to re-enroll in school by making money in the summer working for a nonprofit institution at the minimum wage. 1,602 persons.

Out of School NYC. Similar to the above program, but the participants are not in school. 568 persons.

In-School NYC. The students work after school hours to help pay their way through school. 568 persons.

Family Planning Services. Conducts community health projects involving education, counseling, examinations, supplies and instruction in the full range of family planning methods. 17,633 persons.

Alcoholism and Drug abuse. Provides counseling and treatment for persons with alcohol or drug problems. 24,542 persons.

Head Start program. Provides comprehensive child development programs that operate more than six hours a day for eight months. This program is designed for the underprivileged preschooler. 6,768 persons.

College Work Study. Employs students while they are attending college. 83 persons.

[From the Paragould (Ark.) Daily Press, Feb. 8, 1973]

FUNDING CUTS THREATENING PROGRAMS

(By Ted Wagnon)

Several county programs in social, economic, health and educational improvement services face termination should President Nixon's proposed budget gain approval.

Crowley's Ridge Development Council, Jonesboro, would lose $193,000 in funds from the Office of Economic Opportunity, Bob Yopp, CRDC executive director, said today. OEO funds constitute approximately 10 per cent of CRDC's budget.

Directly affected would be the five neighborhood service centers located in Greene County. Yopp said he had received no official statement as to termination dates, but had heard "unofficially, of three separate dates."

Curtailment of the NSC program would result in five staff cutbacks in Greene County, Yopp said, as well as three staff members who live in Paragould, but work in Jonesboro.

"This could eventually affect all of our programs," Yopp contended. "We may be seeing a trend toward cutbacks in social services of all kinds. We operate programs ranging in size from four counties to 14. We spend $1½ million to $2 million per year; if this money changes hands three times, this would mean an impact of $4½ million lost to the community."

An additional $500,000 goes to training programs, Yopp said. Most of those funds go to Operation Mainstream in Mississippi County.

The local neighborhood youth corps will not be affected by the presently proposed cuts. Yopp said, NYC provides part-time jobs for students or high school dropouts with economically-deprived backgrounds.

"There was a freeze on accepting new enrollees, but it was lifted in January," Yopp explained. "We do have a freeze on staff positions, and our funds for supplies are limited. This is being done to prevent waste, it is said. However, as a personal opinion, it seems a better method would be an intensive investigation gradual trims in wasteful areas, rather than complete termination."

Child day-care and head start programs would not be terminated, although they were included in two bills vetoed by Nixon. Yopp said a proposed special education bill would actually increase budgets for these two programs. That bill has not been introduced to Congress, however.

Although the Crowley's Ridge Area Folk Trade program at Light does not receive OEO funds, it may be affected slightly.

Yopp said OEO had purchased surplus military equipment and other property which it had loaned to CRDC to teach skills in several trades. Should OEO be disbanded, this equipment would be returned to OEO, then sold to the highest bidders.

There is no VISTA worker in Greene County now, but Yopp said OEO funds had been used in the past to pay such a worker.

"Our alcoholic program could also be killed, the CRDC official said. "Through the Arkansas Service Center, we try to help alcoholics to recover. We encourage those who attend the 28-day session to later join Alcoholics Anonymous."

"We also have one staff member who works a four-county area, helping people who qualify receive loans for housing. Since there is a freeze on housing of this kind, this job will be terminated. During the last quarter, 34 people qualified for such loans; that appears ended."

"We see several billion dollars being cut back in social services of this type; revenue sharing is a good thing, but, locally, we will receive less revenue money than we were under the earlier programs. We are actually losing money, not gaining it."

Other programs in doubt include $120 million for rural water and waste disposal grants, $210 million for rural environmental assistance, $280 million for forest roads and trails, $159 million for the food stamp program and the entire Emergency Employment Act.

Paragould presently employs two people through the Emergency Employment Act; the county employs five. Ben Branch, city planner, said funds had been frozen, so that positions which become vacant could not be filled.

"Paragould had three employes under this act, but the radio operator for the police department quit, and we can't hire a replacement from EEA funds," Branch said. I understand several programs will be cut or frozen locally, such as the mental health service and a 1,800,000 request for a water and sewer project.

"It's important to keep in mind that Congress has power to override Nixon's veto. He has been about as arrogant as he can; I'm amazed that he could cut these domestic programs to help the poor and elderly, yet he asks for billions more in defense and foreign aid.

"Like a great number of the congressmen, I feel Nixon is overstepping his rights. If Congress can't do anything about it, then we ought to bring Congress home."

A request for $251,000 for a neighborhood development program (low-rent housing) was denied in September, and several other local projects have been affected also. Branch said the housing project on Canal Street and the six-story complex downtown would not be affected by cutbacks.

Water improvement projects in five areas of Greene County have been frozen.

Carroll Lowe, parks and recreation director, said cutbacks would not affect construction of the new city park, although it would probably hamper requests for funds to refurbish other parks.

State officials in Little Rock declined comment on the possibility of cutbacks in county social services and the food-stamp program. Tom Skypeck, information director, said no official statements had reached their offices, but would probably do so in a few days.

[From the Arkansas Gazette, Feb. 15, 1973]

JOB PROGRAM FOR LR YOUTHS IN BUDGET

The Little Rock School District has announced that no summer Neighborhood Youth Corps program is planned this year, since President Nixon's budget request made *no provisions* for the federally financed job program.

NYC enrollees were high school students from disadvantaged families who needed to work during the summer in order to have money to attend school. To be eligible, the students must have been from families whose annual income could not be above poverty level criteria established by the soon to be defunct federal Office of Economic Opportunity.

The School District said that last summer with a $445,810 budget, the Little Rock School District, which operated the program for all school districts in Pulaski County, enrolled 523 girls and 615 boys. Of these only 64 did not return to school for the fall term.

Lamar Deal, the School District's public relations director, said, "This large decrease in the number of summer jobs available will have a detrimental effect on the disadvantaged youth's ability to obtain summer employment and will make it extremely difficult for many of them to continue their education."

Deal said the NYC not only provided jobs for needy students, but also provided counseling that helped them improve their self-concepts. "They learn job responsibility and gain valuable work experience so that in a year or two they have the necessary skills and confidence to get a job on their own initiative. In this respect, the Summer NYC program has been a very positive force in the lives of many disadvantaged youth," he said.

The Youth Corps program has been in operation in Pulaski County since 1964.

[From the Arkansas Gazette, Mar. 3, 1973]

JOBS IMPERILED BY SS CHANGES, JENNINGS SAYS

Dalton Jennings, the state commissioner of social services, said Friday that proposed changes in the rules governing Titles 4 and 16 of the Social Security Act could eliminate as many as 1,000 jobs in Arkansas.

The changes would severely restrict services for the aged, blind and disabled, and to children, and Jennings said the persons whose jobs would be eliminated work in various social programs that would be reduced or terminated if the changes become effective.

Jennings explained that, under existing rules, state agencies were required to provide certain services to children and adults if the states sponsored specific programs. Under the changes proposed by the Health, Education and Welfare Department, no services are "mandated" for the elderly and only a few are "mandated" for children. They would "severely restrict" the delivery of services to recipients of public assistance, he added.

The changes would be accomplished by a change in some definitions, Jennings said. One of these would rule out remedial help to prevent children or the elderly from becoming welfare responsibilities until six months before they were to require welfare help. That "lead time" now is five years.

(For example, Jennings said a 13-year-old child who has some disabling handicap or disease might avoid having to go on welfare at age 18 if he received the proper care, treatment and services in the five-year interim, under the present language. That care would have to be provided only in the last six months preceding the child's going on welfare under the proposed new rules.)

WOULD ELIMINATE GROUP ELIGIBILITY

The changes also would eliminate group eligibility for such services as day care for children in Model Cities areas; such care would have to be provided on an individual basis.

Many programs now utilize United Way and other private local funds as part of the state matching funds for a variety of services, including care at community mental health centers. The new rule would prohibit the use of private funds, which has helped to generate local interest and support, Jennings said.

Jennings said that although the cutbacks would directly eliminate some jobs in the state Social and Rehabilitative Services Department, most would be eliminated through the Department's various subcontractors.

He explained that the state paid for services for the mentally retarded and handicapped provided by "a number" of other agencies, such as Model Cities and Health and Welfare Councils, as well as from other state agencies.

The state was the primary purchaser of services from several of the agencies, Jennings said, "and I fear that some of them will have to close their doors entirely." Others, he said, would be forced to drastically cut their staffs without the funds on which they have depended.

He said there were more than 60 day care centers in the state for retarded children that were largely dependent on state and federal monies for their existence. "If we can't find other funding, those employes will lose their jobs," Jennings said.

ESTIMATES LOSS AT $10 MILLION

He estimated the loss at $10 million "at the very least," and said the state had potential of drawing up to $18 million under the programs. "There's no doubt about it, it's a major loss."

Jennings said the Council of State Welfare Administrators had taken a "vigorous stand in opposition" to the proposed regulations. "We do not argue having goal-oriented social services," Jennings said, "and we recognized that there must be fiscal responsibility, but there is no reason to kill the program."

The changes must be published in the Federal Register and a period for protests allowed. They would become effective March 17 unless protests force a change, Jennings said.

The Arkansas Chapter of the National Association of Social Workers has added its objections to those of state social services officials.

The Association met February 20 and voted to express its concern to United States Representative Wilbur D. Mills of Kensett, to whom a letter was sent February 26.

"We as social workers have witnessed vividly on a daily basis benefits which the disadvantaged citizens of our state have realized from programs associated with [titles 4 and 16]," the letter states. "These programs have made the difference in peoples' lives by giving them avenues to overcome disabilities caused by conditions and circumstances beyond their control."

The changes proposed by HEW would have "a disastrous effect," said the letter, which was signed by the Chapter president, C. Ray Tribble, and secretary, Mrs. Veronica Goodloe, both of Little Rock.

[From the Arkansas Gazette, Mar. 8, 1973]

SOCIAL PROJECTS TO LOSE FUNDS—$1.3 MILLION CUT BY NEW HEW RULES

(By Dianne Gage)

New guidelines for the federal Health, Education and Welfare Department that become effective March 19 will cost social service project in Pulaski County at least $1,312,626, according to A. Joe Timmons, executive director of the Health and Welfare Council of Pulaski County.

Included in the loss will be 75 per cent of the $540,000 budget for the Council's Comprehensive Social Service Project in Highland Park, Booker Homes and Sunset Terrace, three low-income housing developments operated by the Little Rock Housing Authority. That project was terminated formally February 28 at the end of its first-year contract.

The regulations prohibit the use of private funds to obtain federal matching money. They also require that nearly all persons served be actual welfare recipients, while eliminating certain purchaseable services and greatly increasing the administrative load, Timmons said.

He said about 12,000 persons in Pulaski County now receiving services through day care, residential treatment, services for the handicapped and mentally retarded, rehabilitation and counseling would be affected. The Comprehensive Social Services Project served 7,200, Timmons said.

The HEW money, transmitted through the state Social and Rehabilitative Services Department, representd 75 per cent of the total cost matched three to one with local private contributions.

Timmons said the one-fourth furnished by local and private contributors still would be available in the individual programs but the problem that faced each agency was how to operate on a fourth of its original budget.

The funding loss will mean a staff cut of 153 persons in the Comprehensive Social Services Project, the Frances Allen Exceptional Children's School, North Hills School for Exceptional Children, Frankie Dennie Handicapped Children's Center, North Little Rock Handicapped Children's Center, Sherman Park Annex, Youth Home, New Life Home, Florence Crittenden Home, University of Arkansas Child Study Center, Pathfinders School, Goodstart Day Care Center, Twin Cities Community Services for Alcoholics, Serenity House, Learning Tree Day Care Center, Tri-Community Child Development Center, North Little Rock Service for Adult Handicapped and Life Enrichment for Handicapped Adults, according to a survey by Timmons.

Timmons said there are other social service agencies affected in the county besides those listed but he had not received information from them on the anticipated results of the new regulations.

Timmons said the Goodstart Day Care Center at Jacksonville was under a funding contract for operation until June 30 but that it probably would have to close before then. He said the Center, for children of working parents with moderate incomes, now has 20 children, but, under the new guidelines, would have only four children that would be eligible.

Timmons noted that County Judge Frank Mackey said he would designate $80,000 to $100,000 of the county's revenue sharing money for agencies conducting programs for the poor and aged.

The Comprehensive Social Services Project for the three housing areas was begun in cooperation with the residents and with the United Way and the state Social Services Department on March 1, 1972. Contracts for delivery of services had been developed with Big Brothers, Boy Scouts, Elizabeth Mitchell Children's Center, Family Service Agency,

Girl Scouts, Urban League, YWCA and YMCA.

IX. ECONOMIC DEVELOPMENT ADMINISTRATION AND OZARKS REGIONAL COUNCIL

Mr. FULBRIGHT. Mr. President, two agencies which have been particularly significant in contributing to the development of Arkansas in recent years are the Economic Development Administration and the Ozarks Regional Commission. However, the President proposes to eliminate both of these programs.

Since its inception in 1965, EDA has spent $55.7 million on 228 projects in Arkansas, accounting for some 29,000 jobs.

These projects have been especially important—along with the Farmers Home Administration aid for water and sewer systems, another program which the administration would eliminate—in aiding the development of some of our smaller communities. As I have frequently emphasized over the years, we need to make these communities attractive places to live and provide them with the needed amenities to attract industries and business. In so doing we help alleviate the pressure on our crowded and troubled urban areas.

EDA has played an important role in planning development projects through the regional development districts and then providing funds to assist in carrying out such projects. A major emphasis has been on developing adequate water systems and industrial parks to serve potential industries. This has resulted in the location of industries in many of our communities, but many more could benefit from such assistance. EDA has also aided in the construction of vocational technical schools. In most cases EDA funds have supplemented State or local support.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point an article from the Pine Bluff Commercial on the Southeast Arkansas Economic Development District.

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

ORGANIZATION AIMS AT UPGRADING AREA THROUGH BUSINESS, CAPITALISM

(By Kathy Wells)

Free enterprise and capitalism are popular concepts in this country, and it is not surprising that a government program was established to help out areas that do not enjoy business prosperity.

The program is the federal Economic Development Administration, and its workers here operate through the Southeast Arkansas Economic Development District, Inc., of Pine Bluff.

However, what began in 1967 as an organization devoted to helping communities attract industry has burgeoned into a clearinghouse for numerous federal programs of all kinds. Only school aid is automatically exempt from the district's concern, according to Paul Bates of Pine Bluff, district director, and additional responsibility is added to the staff's concerns on a regular basis.

The future of the entire development administration is in doubt at this time, since President Nixon vetoed its budget last October. It has been continuing on interim authority while supporters of the program rally around, including the Arkansas congressional delegation.

Other social action programs and grants-in-aid to rural communities have also been disrupted in a major maneuver by the Nixon Administration. However, business continues as usual at 1108 Poplar Street here, where the district staff is housed.

Their business is business—and prosperity—and community parks, hospitals, water tanks, airports; those things in demand everywhere that enhance any town. Without the services of the district, Bates said, "a lot of this would never be done."

In the absence of assistance from district planners, he said, cities and counties in Southeast Arkansas would have stood alone in a barrage of federal aid programs initiated in recent years. And alone, Bates said, they would have done without some programs, or scraped together the salary to employ a planner to serve their needs, or contracted with a private grant-application firm, a phenomenon that has grown with the number of federal programs.

"We know which limb of the tree to shake, and where to go to do it," Bates said of his district's dealings with bureaucrats that pass on grant applications.

Members of the district in the 10-county area it serves pay for its services, Bates said, in the form of annual contributions from each city and county budget. Local contributions to the support of the district office and staff totaled $30,000 for this fiscal year, Bates said, which was matched with $30,000 from state funds, and served as a basis for grants from federal agencies, generally on a 75-25 matching formula, with the federal government bearing the large burden.

The development district here serves Arkansas, Jefferson, Grant, Cleveland, Lincoln, Desha, Chicot, Ashley, Drew and Bradley Counties.

The budget for the current fiscal year totals $225,703, which supports a staff of 10 professional planners, including the director, plus two secretaries, an office manager, a bookkeeper (for a total staff of 14) and a $4,800 annual rental on the office space they occupy under a lease from Barco, Inc., a Pine Bluff investment real estate firm.

Bates said the professional salaries ranged from $21,000, his own, to $9,000, and office salaries ranged from $7,000 to $4,800. Purchase of a building is forbidden by federal regulations, he said.

A racial balance is maintained on the staff, Bates said, and currently the office force includes two secretaries, an economic planner and two minority business development workers who are black.

The district is incorporated under state law as a nonprofit organization to funnel federal money to Southeast Arkansas, and maintains separate accounts for funds received from the different agencies, Bates said.

For this fiscal year, which for the district will end April 30, the budget includes $30,000 from cities and counties and $30,000 from the state, both scattered through the different accounts as local matching funds. Those accounts are $81,464 from the Economic Development Administration; $72,818 from the state Business Development Division (itself funded by the federal Office of Minority Business Enterprise); $59,952 from the federal Health, Education and Welfare Department for health planning; $23,469 from the federal Housing and Urban Development Department; and $18,000 from the Industrial Services Association, Inc. (a nonprofit manufacturers association created to acquaint Arkansas businssmen with Arkansas suppliers and markets, now terminated).

In addition, he said, the district is distributing $182,000 to Jefferson County and City of Pine Bluff employees under the federal Emergency Employment Act.

Salaries and office costs are apportioned among the different agencies in accordance with the amount of time spent working on specific projects in those areas, Bates said, while the basic support still comes from the Economic Development Administration, which makes grants aimed at keeping the Pine Bluff office going.

Mr. FULBRIGHT. Mr. President, project funds spent by the Ozarks Regional Commission in Arkansas since 1968 total $11.1 million and have accounted for 4,545 jobs and 2,065 students enrolled in continuing programs, primarily vocational technical schools which have been partially funded by the ORC. The total project costs—a combination of Federal, State, and local money—have been $24.2 million.

In a number of cases ORC funds have been used to supplement local funds when there was not sufficient money within a community to finance a project. A good example of this was $100,000 from the ORC to help construct an airport at Mena. That money represented the amount the community was unable to raise locally or through under Federal agencies. As a result of the airport, the community has acquired one new industry and has become attractive to other propects.

Just a year ago Vice President AGNEW proposed that the ORC be expanded to encompass the entire areas of Arkansas, Missouri, Kansas, and Oklahoma, plus three other States.

The Arkansas Democrat reported on February 24, 1972:

Agnew described his proposal as "another step in the President's continuing effort to improve the intergovernmental comprehensive planning process and the federal response to regional needs."

Agnew said the commission would "represent a cooperative federal state effort to help solve the economic problems of the region in a manner similar to other regional commissions now in existence."

The commission would operate under Title 5 of the Public Works and Economic Development Act of 1965 until "the passage of the Rural Special Revenue Sharing proposal," Agnew said. If the proposal is accepted, the new commission would operate, as would all other regional commissions, as a part of that program . . .

In view of subsequent events, the Vice President's words are, of course, ironic. And if the administration is truly interested in revenue sharing, it seems to me that the Ozarks Regional Commission is already based on the concept of revenue sharing. Money is sent back to the regional level and after planning and consultation with State and local officials is utilized with local funds for priority projects.

I think it would be unwise to abandon these existing programs in favor of a questionable revenue sharing operation, particularly in view of the decreased funding which would be available.

HOUSING AND COMMUNITY DEVELOPMENT

The proposed budget for the Department of Housing and Urban Development is down 36 percent in new appropriations requested and 26 percent in new program commitments from fiscal year 1973. Freezes and cutbacks will trim or eliminate a number of important programs, although again the President proposes to consolidate some of them into a revenue-sharing program. Among the

programs for which the budget requests no new funds are water and sewer facilities grants, model cities, open space grants, and neighborhood facilities grants.

Only 2 years ago the President was saying that "among the accomplishments of this administration of which I am most proud" was a record production of federally subsidized housing for low- and moderate-income families. Now he has repudiated his own claims, suspending all new housing activity despite the plight of millions of ill-housed families and the continuing deterioration of much of our urban environment.

Few would argue that there have not been inadequacies and problems in Federal housing programs, and 2 years ago the Congress asked that a new national urban growth policy be formulated, although this has not yet been done. The President has promised new policy recommendations on housing "within 6 months." I hope these recommendations will reflect a greater commitment to housing and resolution of our urban problems than does the current budget proposal.

The administration's freeze on housing is by no means confined to urban areas, for the Farmers Home Administration rural housing program has also been halted. As Miss Mary Frost of the Central Arkansas Development Council said, these cuts will have a "tremendous impact" on the State. Miss Frost said:

The housing situation in Arkansas, particularly in rural areas, is critical. The freeze will be extremely destructive to our efforts to help poor people acquire adequate housing which they can afford.

In Arkansas the Farmers Home Administration has made 7,849 housing loans totaling $95.8 million. Of these loans, 4,475 were subsidized low-interest loans totaling $59.8 million.

According to Mr. Carl Knox, executive director of the NAEOA Housing Development Corporation in Rogers, Ark., the Farmers Home Administration programs "have been very successful and have proved a salvation for rural low-income families." Mr. Knox continues:

This is where our greatest need lies. With the interest subsidy programs we have been able to assist that portion of our low-income, rural population who do not enter within the scope of any other existing housing programs—45.6% of our three country area population have an annual income of less than $4999, and cannot qualify for the $25,000 and up homes that are being built. Our region along with most of Arkansas, is primarily rural, and we feel that FmHA has been most helpful in meeting the needs of rural families. We believe the very low percentage of repossessions, approximately 2½%, is an impressive fact of their effectiveness.

Mr. James Overstreet of Taylor, Ark. writes:

Surely a nation that spent billions getting men to the moon and back five times can accept the challenge of providing decent housing.

Huge amounts have also been spent for bombs dropped on Vietnam wrecking the country and killing countless innocent people. Surely we can take some of our money and technology and clean up and prevent our people from having to live in third class housing.

Please say "yes" to human decency and "no" to unwise punitive measures against poor people by not allowing the President to curtail funds for rural housing. Your action can help bring a solution rather than create additional problems.

It is difficult for people in Arkansas to understand how the President can continue to promise foreign aid while vitally needed domestic projects remain unfunded. A good example of this was called to my attention by Mr. Ben F. Branch, city planner of the city of Paragould, Ark. Mr. Branch referred to a report in the Arkansas Gazette of February 18 stating that President Nixon planned to approve more than $500 million in additional aid for Israel in the form of loans and credits including $100 million for "new housing in Israel" and $40 million "to alleviate the Israeli budget deficit caused by heavy defense spending."

In contrast to this, Mr. Branch points out:

Mr. Thomas Barber, the Arkansas Area Director of HUD has informed the Urban Renewal Commissioners of Paragould that his office received only $500,000 for New Neighborhood Development programs to create new housing for your home state in fiscal 1972–73.

Paragould was one of six different Arkansas Cities to apply for this program, this was the 2nd application that Paragould has filed and spent over $10,000 of local businessmen's and city money to prepare applications in an effort to renew certain sections of Paragould's substandard housing.

Mr. Branch notes that Paragould was again denied funds for this program, as were five other Arkansas cities. There were sufficient funds for just one new neighborhood development project in the State.

Mr. Branch continues:

It is now clear that Mr. Nixon has chosen to forsake the people of the United States in favor of his foreign aid programs. . . . We continue to have severe water, sewer, employment, health and poverty problems that these funds might better be spent for.

Arkansas will also suffer from a lack of funds for sewage treatment facilities. The impoundment—in direct contravention of a congressional override of a Presidential veto—and the planned cutback of funds for sewage treatment means that available money will not come close to funding all of the applications from Arkansas cities. The expected allotment for the State will be $7.1 million for the remainder of this fiscal year and $10.6 million in fiscal 1974. Much of this will go for just one city, Hot Springs, leaving very little for some 30 other communities which have applications approved but unfunded, or still pending.

Rehabilitation of our urban areas will be severely hampered by the loss of low-interest home improvement loans in urban renewal areas. This has already had a considerable impact on the Pike Avenue urban renewal project in North Little Rock.

An example of the loss from cutbacks for urban projects is the city of Fayetteville, where City Manager Don Grimes estimates a loss of $400,000 in water and sewer funds, $200,000 in urban renewal funds, and $60,000 for park projects.

Mr. President, the solution to the weaknesses and inadequacies in existing housing and community development programs does not lie in a meat-ax approach. If existing programs are to be eliminated, there must be workable alternatives ready to be put into effect. We are already far behind in meeting our commitments to provide decent housing for low- and moderate-income families and in rehabilitating our cities. The present freeze on funds and the planned phaseout of programs would mean a serious setback in our efforts to attain these goals.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point a few of the many letters I have received on this subject, plus articles from the Arkansas Gazette, Pine Bluff Commercial, Fort Smith Southwest Times-Record, and Mountain Home Baxter Bulletin detailing some of the effects of impoundment and proposed cutbacks in housing and community development.

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

[From the Pine Bluff Commerical, Mar. 4, 1973]

URBAN RENEWAL—FIRST REHABILITATION PROJECT COMPLETED

(By James R. Taylor)

Earnestine Parks of 2501 Fluker Street says she thinks her new house is "fantastic." It has been "rehabilitated" under programs administered by the Pine Bluff Urban Renewal Agency.

Mrs. Parks's house is the first to be completed under the agency's rehabilitation loan and grant program. Oddly enough, it may also be one of the last also, according to Lewis Yingling, assistant director of the agency.

Funds for such projects were originally provided under Title 1 of the federal Housing Act of 1949 but are scheduled to be one of several casualties under President Nixon's proposed budget for Fiscal 1974.

Yingling said the agency would complete 15 rehabilitation projects by July 1 and that the continuation of the program beyond that point is "doubtful." He said that a similar program might be continued using "conventional" loans such as those obtained through the Federal Housing Administration.

The rehabilitation work on Mrs. Parks' house took six weeks, she said Friday, when she received the keys from the contractor, Robert F. Davis of the Davis Construction Company.

Yingling said that "everything that is exposed" on the house was "rebuilt." A two-bedroom structure, the house was equipped with new bathroom and kitchen equipment, central heating, and a storage shed, among other things, at a cost of approximately $8,500, according to Yingling. The project was financed with both a loan and a grant under the rehabilitation program, Yingling said.

After an inspection tour of the house, Mrs. Parks said that it represented "a wish come true" for her and that "the good Lord provided this program so my wish could come true."

"I just love it," she said.

According to information provided by the agency, the rehabilitation loans are direct loans from the federal government to rehabilitate or improve properties in an approved urban renewal area or a neighborhood development program area. Mrs. Parks's house lies in the College View Neighborhood Development Project area.

According to the program regulations, the property must not be scheduled for acquisition by the agency.

The interest rate on the loans is 3 per cent, with a loan term of from three to 20 years.

Under the loan program, any property in an approved area is eligible whether it is a home, an apartment building or commercial. The loans may be made to owner-occupants, landlords or to tenants of commercial property.

The maximum amount that may be obtained under the loan program is $12,000 for each living unit or $50,000 on commercial property.

The rehabilitation specialist for the agency (in Pine Bluff, Charles Bell) inspects the property and decides what work needs to be done. The specialist then obtains bids from reliable contractors and any contractors recommended by the person receiving the loan. He then assists the person in choosing the lowest acceptable bid, according to the information.

After approval of the loan, the contract for the work is signed. All work needed to bring the property up to the neighborhood's property rehabilitation standards must be done.

"Loan money may also be used for nonluxury work, which will make the property more livable without making it an over-improvement for the neighborhood," the information states.

The contractor is not paid until the specialist certifies that the work has been done according to the contract and meets the rehabilitation standards. In some cases, the Federal Housing Authority also inspects the work on residential properties, and the federal Small Business Administration sometimes inspects improvements on commercial property.

The grant program differs in several respects from the loan program. The grant is an outright gift from the federal government to rehabilitate owner-occupied homes or duplexes.

The maximum amount that may be obtained under the grant program is $3,500. If that is not enough, the information says the difference must be obtained from another source, such as the loan program.

The procedure for determining what work shall be done and who will do it is the same under both programs.

There is an income limitation on the grant program. If the husband and wife have a combined income of under $3,000 and do not have excessive savings and other assets, the information states, they may be eligible to participate in the program.

After an inspection tour of the house Friday, Yingling turned to Mrs. Parks and said: "I guess you're ready to move back in now."

"Yippee!" she replied.

[From the Arkansas Gazette, Jan. 4, 1973]

NIXON CUTS HURT PROJECT ON PIKE, AGENCY ASSERTS

(By John Woodruff)

North Little Rock Urban Renewal Agency officials said last week that federal restrictions on low-interest home improvement loans in urban renewal areas have severely hampered progress and the eventual results of the Pike Avenue 1 Urban Renewal Project.

The restrictions became effective in late September but the word has just gotten around to the residents and they are feeling the impact. The restrictions limit the amount of income families may earn in order to qualify for federal Section 312 improvement loans at 3 per cent interest—and the result is that most persons in the Pike Project don't qualify.

The 237-acre Project was announced in 1970 as primarily a rehabilitation project with little acquisition and relocation of residents and a "minimum of demolition." The Project is the largest such project in the state.

Olen Thomas, the agency director, indicated that the project's objective for rehabilitation, rather than the more typical clearance and redevelopment, now may have been thwarted.

Residents, too, are upset over the restrictions. On Thursday, they began a letter-writing campaign to protest the state's congressional delegation. E. L. Matheny, vice chairman of the Pike Avenue Project Citizens Committee, distributed sample copies of letters that residents could follow.

Matheny, who has lived for 29 years at 1118 West Sixteenth Street, said a dozen of his neighbors in the Project have promised to protest.

The Citizens Committee began planning the campaign after Thomas spoke Monday to the group at its request and explained the restrictions. The Committee is a 10-member group appointed as a liaison between project residents and the Agency.

Matheny said in his letter that he was "greatly distressed over the withholding of funds for the [Section 312] home improvement loan progress by the Office of Management and Budget." He said that limiting loans to low-income families "will result in the termination of the Pike Avenue Project Area and its determination to conserve a fine residential area. This is going to be a severe blow to the progress we have been making in this neighborhood * * *."

"We will not be able to complete all the rehabilitation in the projection within the target completion time of March 1976.

"We'll arrest a lot of decay and deteriorating housing but we will not do what we could have done if the 3 per cent loan money had been left alone."

Residents now will have to use their savings and commercial loans for improvements.

The Committee's meeting Monday was its first since the restrictions became effective in September. The residents argued that Thomas should have told them about them so they could have obtained low-income loans earlier. Thomas said he would have warned them if he had known the restrictions were imminent.

The restrictions were announced after the federal Office of Management and Budget impounded at President Nixon's request about $50 million of the $90 million Congress had approved for low-interest rehabilitation loans.

The loans, which the North Little Rock Agency wanted to use to help residents shape their properties into a showcase community, are authorized under the Housing Act of 1948, as amended in 1965 to establish Section 312 for the home improvement loans to persons in urban renewal projects at a 3 per cent interest rate.

Plans for the Project, which received its final approval by the federal Housing and Urban Development Department in April 1971, estimated that $400,000 in Section 312 loans would be issued to 450 families in the Project.

NO LOANS ISSUED SINCE SEPTEMBER

No loans have been issued since September. By then, only 12 Section 312 loans had been issued for $58,000, according to Andy Fierro, the Urban Renewal Agency loan officer. (Direct improvement grants, which will not have to be repaid, however, have been issued to 71 poverty-level property owners for rehabilitation valued at $219,835. This is not part of the $400,000 loan estimate.)

Eight applicants for Section 312 loans were rejected when the income limits became effective although those applications already had been completed.

One of them, a widow, was turned down September 30. Her application, which had undergone a rigorous preparation with extended surveys and on-site inspections, had been completed and submitted to the regional HUD office September 5. The application was rejected because her annual income slightly exceeded the new income guidelines adopted in late September by HUD after the money was impounded. She was incensed.

The new guidelines prohibit issuing Section 312 loans to families with these maximum yearly incomes—one person earning $4,750, two-member families whose total income is $5,850, and three- and four-member families whose total income is $6,700. Previously, there were no income limits for obtaining the loans.

The guidelines eliminate most of the potential applicants in the project, where the average income is about $8,000 a year. Many of the houses are 60 years old and need remodeling.

The Urban Renewal officials contend that persons who would qualify for the loans now would be unable to obtain them, because they could not afford the repayments. An $8,000 loan, for example, for repayment in 20 years would cost $4.40 a month. At the same time that the new restrictions went into effect, the maximum loan amounts were increased from $12,500 to $16,800.

Coincidentally, one of the city's first Section 312 loans, issued July 10, 1966, for $8,450, was completely paid back last week. It was the first in the city to be repaid.

The loan made it possible for Burnis Ervin of 615 West Twenty-fourth Street, in the Military Heights Urban Renewal Project, to remodel inside and out the home occupied by him, his sister and mother.

Ervin paid off the loan early, saving about $1,000 in interest that he would have had to pay if he had used the entire 20-year repayment time.

The repayment took Agency officials by surprise and they were investigating what procedures were necessary to close out the account.

The Military Heights Project, the city's first, has transformed a decayed, flood-prone residential community of mostly shacks into a 140-acre development of attractive homes, a medical center, public buildings and a high-rise apartment building for the elderly.

[From the Arkansas Gazette, Feb. 22, 1973]

SEWER FUNDS FOR LR PROJECT ARE IMPOUNDED

Federal funds to help finance a proposed $4.2 million sewer improvement project in west Little Rock are included in the money for domestic programs that have been impounded by the Nixon administration.

The Little Rock Sewer Committee applied in October to the Environmental Protection Agency for the federal funds, which would pay for 75 per cent, or around $3 million, of the work.

One of the proposed projects is the Rock Creek-Fourche Creek Interceptor with an estimated cost of $884,082, which calls for installing a sewer line from near the intersection of Rock Creek and Coleman Creek to 1,000 feet west of University Avenue. Another project, the Rock Creek Interceptor, calls for installing 19,120 feet of the line at an estimated cost of $2,343,333. The third project, the Grassy Flat Creek Interceptor, would cost $1,043,439 and would involve installing 24,250 feet of sewer lines along Grassy Flat Creek from around west Markham Street to Highway 10.

Sanford Wilbourn, president of Garver and Garver Engineers, suggested Tuesday at the Committee's monthly meeting that it explore the possibility of a two-year funding program with the EPA for the proposed projects, rather than trying to get all the money in fiscal 1973.

Porter L. Pryor, the Department manager Wednesday said it apparently made no difference now how the money request is made since there is no money to be had.

Pryor explained the reason for askng for the money in two installments, if and when it does become available. He said all of Arkansas had stood to get only $10 million in fiscal 1973, and that it would be advantageous to other cities applying for funds if Little Rock sought only $1.5 million rather than the entire $3 million.

Pryor speculated Wednesday, that enough "pressure" would be put on President Nixon to force the impoundment be lifted soon. "I don't think there's any doubt that we'll get the money. The doubt is when we will get the money," Pryor said.

The existing line along Rock Creek, which carries sewage from western Little Rock, already is filled to capacity. The new line would tie into a large trunk line that runs along Fourche Creek and eventually to the sewage treatment plant east of Adams Field.

The Sewer Department last week completed another application to the EPA, that one for money to separate combination storm and sanitary sewer lines in the East End that now permit raw sewage to flow into the Arkansas River.

Pryor said then the Nixon freeze made chances bleak that the application would be approved soon.

[From the Pine Bluff Commercial, Mar. 13, 1973]

LOSS OF FUNDS HERE IS CONFIRMED BY HUD

(By James R. Taylor)

Officials of the area office of the federal Housing and Urban Development Department in Little Rock yesterday confirmed reports that the Pine Bluff Urban Renewal Agency will probably be without funds as of July 1.

The agency was informed last week that its only operative program, the College View Neighborhood Development Project, would not be funded for a second year. The current one-year funding period for the project expires June 30 and the agency received $400,000 in federal funds for the project in that period, according to Dewey Taplin, executive director of the agency.

Administrative funds for the agency are included in grants for specific programs, Taplin said.

"The new (federal) administrative restrictions make it just almost impossible for them (the agency) to do another year," Delbert Beeman, a community development representative of the department's office, said of the Pine Bluff project in a telephone interview yesterday.

"In fact, I'd say it would be impossible if they don't have a land inventory, which they don't have, in an NDP (Neighborhood Development Project). The guidelines require that all on-site improvements relate to land that they own and have to do with its disposal," Beeman said. The Pine Bluff agency owns no land in the College View project area.

Asked if this meant the Pine Bluff agency faced extinction, Beeman replied: "I believe the answer is yes. It seems to me like its almost a certainty that the agency is probably not going to have any programs after July 1."

Thomas E. Barber, director of the department's Little Rock office, said yesterday that he was aware the College View project was the agency's only program, but said he was not aware that "there would be no funding at all" for the agency.

[From the Southwest Times Record, Mar. 15, 1973]

HUD TO CURTAIL LOCAL PROGRAMS

(By Lyndon Finney)

Fort Smith will be formally notified soon to wind down its Neighborhood Development Program toward a July 31 termination date.

That is the latest word from Sterling Cockrill, deputy area director of the Little Rock area office of the Department of Housing and Urban Development.

Cockrill was in the city Tuesday to discuss with officials the Community Development Statement which the city must submit at a prelude to receiving Community Development Special Revenue Sharing money which, it is anticipated, will replace categorical HUD grants.

In an exclusive interview with The Southwest Times Record, Cockrill said the local Urban Renewal Agency, which administers the NDP program, will be told:

(1) To cease acquisition of property for redevlopment.

(2) To cease granting low-interest loans to private property owners when loan authority (meaning that amount of money approved to be used as loans) runs out.

Purchase of property within the program area for resale to developers, extending the low interest loans to property owners in the program area for renovation of property and improvements to such public facilities as streets and gutters in the program area comprise a Neighborhood Development Program.

Cockrill said it was hoped that all property acquired by the agency could be disposed of by the closing date.

He said money allocated for property purchase which hadn't been used would be rechanneled to be used in such areas as street and gutter improvements.

The same orders which will be issued to Fort Smith will go to other cities with Neighborhood Development Programs, which are funded annually, as opposed to long-term funding for conventional Urban Renewal programs.

Cockrill said absolutely no NDP efforts would be refunded.

Asked if any programs will be extended, Cockrill said if a program has advanced to the point that the amount of property acquired can't be resold by a program ending date, HUD will extend funding for administrative purposes while sales are completed.

No new money will be allocated for purchases, loans or improvements, he said.

According to Cockrill, administrative funds for programs which have to be extended will be transferred from other programs which had property money left over (after the order to stop buying is formally issued) and did not want to place that money into improvements such as the street and gutter work.

NDP projects have different anniversary dates, therefore it is possible that programs nationwide could extend to the end of 1973, about one year from the time President Nixon imposed the freeze on HUD categorical money.

[From the Baxter Bulletin, Mar. 23, 1973]

ECONOMY TO SUFFER FROM FHA CUTBACKS

WASHINGTON.—The 18-month moratorium on Farmers Home Administration housing subsidy programs will mean a direct loss of $1.6 billions to the economy of rural areas of the nation and a loss of 133,000 jobs to those areas. The indirect loss to the rural economy would be conservatively two or three times the direct loss.

This estimate of the effect on the rural areas of the nation of the Administration cutback of rural housing subsidy programs accompanied publication of a report of the Second National Rural Housing Conference.

The conference was held here November 28-30, before the announcement cancelling FHA housing subsidy programs. More than 800 rural housing leaders from 46 states attended the meeting.

A tabulation of the effect of the moratorium was made for each state.

For Arkansas, the direct loss to the economy was estimated at $61,178,240 and 5,930 jobs.

The 18-month direct loss is a calculation of the decrease in FHA housing programs for the 18 months beginning January 1, 1973, the funds impounded by the freeze from January 1, 1973 through June 30, 1973 and the decreases proposed by the administration for the fiscal year beginning July 1, 1973 as compared to appropriations for the prior fiscal year.

Potential loss of employment was determined using FHA estimating procedures. The FHA serves rural areas and towns up to 10,000 population.

The national rural housing conference culminated with adoption of an extensive set of resolutions that declared "Every citizen of this nation should have a recognized and enforceable legal right to a home he or she can afford."

The conference demanded a reordering of national priorities, charging that a society which spends four times as much on the private purchase of jewelry and watches ($4 billion in 1970) as it does on publicly subsidized housing, "has a tragically distorted sense of values."

The conference report included the following basic facts concerning rural housing:

Four million occupied housing units in nonmetropolitan areas lack essential plumbing or are overcrowded. These units house 14 million people.

Roughly one house in eight is substandard in these areas, compared to one in 25 in metropolitan areas.

Water and sewer systems are essential to good housing. There is an estimated backlog of $12 billion for these facilities in rural areas.

Roughly one quarter of a million farm worker families live in substandard housing.

MCCLURE REALTY CO.,
Malvern, Ark., January 10, 1973.

Senator J. WILLIAM FULBRIGHT,
Senate Office Building,
Washington, D.C.

DEAR SENATOR: It was with a great deal of concern and disappointment that I read today's paper which sets out the fact that the Nixon administration has frozen the rural housing loans. I am particularly concerned about the Farmer's Home Administration loan program which has been so useful and successful in our area. This program has provided many modern homes for rural low income families who could not afford one any other way.

If there is anything that you can do to reverse the current decision by the Nixon administration, I would certainly appreciate your help. I am sure I speak for most of the other citizens of the state of Arkansas.

Thanks very much for your consideration.

Yours very truly,

GEORGE L. MCCLURE.

CRAWFORD-SEBASTIAN COMMUNITY,
DEVELOPMENT COUNCIL, INC.,
Van Buren, Ark., January 15, 1973.

Senator J. W. FULBRIGHT,
Committee on Foreign Affairs,
Washington, D.C.

HONORABLE SENATOR FULBRIGHT: The recently imposed moratorium on interest credit housing for low and middle income people will critically effect the very successful housing program of the CAA in attempting to provide housing for this segment of the population. This moratorium effects approximately 60% of the families in Crawford and Sebastian Counties.

The Housing Development Corporation, delegate agency to the CAA, had planned to assist a minimum of 100 families in obtaining safe and sanitary housing during 1973. Through assistance from you office, the Housing Assistance Council has recently approved a loan to assist the Housing Development Corporation in building 54 new homes for low and middle income families at Alma. As a result of the recent action by the Presi-

dent, this loan will very likely not be obtained.

The Farmers Home Administration had planned to make approximately 300 interest credit loans in Crawford and Sebastian Counties during 1973. As Executive Director of CAA I would like to encourage your office to become active in an effort to prevent the moratorium from applying to the Farmers Home Administration Section 502 interest credit loans for rural families.

Sincerely yours,

WILLIAM G. MORSE,
Executive Director.

FLETCHER REAL ESTATE,
Osceola, Ark., January 11, 1973.

Re Subsidized housing.

Senator J. W. FULBRIGHT,
Washington, D.C.

DEAR SENATOR FULBRIGHT: We have been recently advised by the Federal Housing Administration and the Farmers Home Administration that, effective January 5, 1973, all subsidized housing programs have been put on a temporary hold.

This action will have a far more reaching effect on the economy of the Nation as a whole than possibly a great many people realize. The housing industry employs many people who now will be out of work because of the suspension of this very vital program.

The government has been asking that developers such as myself build more housing units for the lower income people for the past several years, and our programs were geared to this endeavor. Now that we are in a position to provide more units for these people (low income, minority, etc.), the program is suddenly stopped.

It seems that the developers and contractors are being used as whipping boys every time the government makes a so called economy move. The developers and builders only have one good year every three years because of government intervention in the housing programs.

There have been numerous developers and builders over the past five years who have been forced into bankruptcy because of the unstable housing programs. It would seem to me that the housing industry should stop being used as a political football by the politicians, and that a more stable housing program be introduced that we could depend on for more than one year at a time.

We would certainly appreciate any help you could give us on this matter.

With kind personal regards, I am,

Very truly yours,

W. F. FLETCHER,
Realtor.

PLEASANT HOMES, INC.,
Little Rock, Ark., January 11, 1973.

Hon. J. WILLIAM FULBRIGHT,
New Senate Office Building,
Washington, D.C.

DEAR SIR: We build exclusively for families with moderate, or low income in rural Arkansas.

A very high percentage of our customers are able to purchase an adequate home only because of the subsidy which has been available through the Farmers Home Administration 502 program.

The curtailment of this, and other housing subsidy programs by the President, will impose significant hardship on many Arkansas families and set back the progress of our state in the area of general development, as well as in the area of housing. It will, of course, cause us to seek new markets.

We strongly urge you to take action, through the proper congressional avenues, to reverse this curtailment of subsidized housing programs.

Sincerely,

ROBERT G. BRAVE,
Vice President.

XI. AGRICULTURE AND RURAL PROGRAMS

Mr. FULBRIGHT. Mr. President, I do not intend to comment at length on the cutbacks in agriculture and rural programs since I discussed the subject in detail in a Senate statement on January 23 and since the Senate has dealt with several of these programs in recent weeks.

I have already made mention today of two of the important rural development programs which are being threatened with termination—the Farmers Home Administration grants for water and sewer systems and the FHA rural housing program.

The water and sewer system program is, in my view, one of the most worthwhile undertakings by the Government. The amounts of money involved are minimal when compared to military expenditures, yet the administration has consistently refused to expend the funds appropriated by Congress and now proposes to end the program altogether. Yet there are pending applications for approximately $250 million in grant funds and there has been a consistent backlog of several million dollars in applications from Arkansas.

According to the 1970 census, there were 672,967 permanent housing units in Arkansas, and 230,377 of these did not have access to public or private water distribution systems, and 317,286 were not connected with a sewer system. Nearly all of these housing units were in rural areas.

Among other rural-agriculture programs which would be eliminated or cut back by the administration are the emergency disaster loans for farmers, REA direct loans, the water bank program, and the rural environmental assistance programs—REAP. I want to say a word about REAP since it has become a whipping boy for certain columnists and editorial writers as well as the administration. Judging from some of their comments you would think that REAP is a vast giveaway program which has no real purpose and meets no real need.

This is not the case, however. As the New York Times reported on March 13.

> Contrary to wide belief, soil erosion has not been stopped in the United States. It has been slowed considerably since the bad times of the 1920s and 30s. But the nation's farms still lose about 2 billion tons of soil each year.
>
> Farmers and conservationists are mulling over this unpleasant fact with new anxiety this winter because the only nationwide effort to control erosion has been abolished, a victim of the Nixon Administration's reordering of Federal spending priorities.

REAP is, in fact, a cost-sharing program in which some 15,000 Arkansas farmers participate with an average Federal payment of only $230 per farmer. Leland DuVall, farm columnist for the Arkansas Gazette, whom I believe is considerably better informed about the program than many of those who have commented in recent weeks, points out that the benefits of REAP flow to everyone "in the form of an improved environment, better water in the Nation's streams, and less expensive food and clothing, to mention only a few of the direct contributions." Mr. DuVall notes that the full REAP appropriation approved by Congress amounted to only nine-tenths of 1 percent of the Federal budget.

An editorial in the Northwest Arkansas Times of February 10 summed it up well:

> One of the better "social" programs of the federal government, it seems to us, is the Rural Environmental Assistance Program. The program has been in effect for 40 years and costs very little in the broad view of things. . . .
>
> We understand the President's concern with inflation and the ogre of a budget deficit. This program, however, is one that pays for itself in more ways than one. It helps support small farm operations for one thing, and it makes a contribution to clean water and air (which is becoming major budget consideration). It also tends to increase property values, which help the tax picture, and to a degree helps at the farm income level, which has an indirect stabilizing effect on food prices at point of origin.
>
> Perhaps the program could be improved or expanded, so as to do more good. It doesn't make much sense to kill a successful program in favor of things like moon shoots, the SST (which Mr. Nixon is reported hoping to resurrect), and assorted war machines that don't work.

XII. AMTRAK RAIL PASSENGER SERVICE

The President has refused to spend funds which were appropriated by Congress and included in a bill which he signed into law to provide rail passenger service through Arkansas. This would have been the first passenger service in Arkansas since the establishment of Amtrak, which is supposed to be a national rail passenger system.

Again it is hard to understand how the President can justify his refusal to allocate these funds in view of his lavish military budget. For example, just one of the scandal-ridden F–14 planes is expected to cost six times as much as the $4 million allocated for the Amtrak route to Mexico through Arkansas.

Perhaps more symbolic is the President's plan to spend some $40 million in various projects associated with the development of the supersonic transport—SST—aircraft. It should be remembered that it was the President who wanted the Government to proceed with this multibillion-dollar project which was neither economically feasible nor environmentally sound. Yet the Congress refused to go along with any further Government spending for the development of the SST.

I have long advocated a balanced transportation system and the importance of sound public transportation. I greatly regret the administration's impoundment of funds for Amtrak service through Arkansas as well as the intended cuts in overall Amtrak funding. Particularly in this time of the much-discussed energy crisis, I think these actions are clearly contrary to the Nation's best interests, for trains make far more efficient use of fuel than most other forms of transportation.

THE PUBLIC INTEREST

Mr. President, in a three-part statement I have discussed a number of what I believe to be misconceptions and myths about the administration's budget proposals. Additionally, I have attempted to analyze in some detail the impact of

the administration's budgetary policies on the State of Arkansas. I have not by any means dealt with all aspects of the budget; merely some of those programs most important to my State. From this analysis, I believe it is clear that the people of Arkansas would be adversely affected by the slashes in domestic programs for human and community development.

The President and his spokesmen have accused the Congress of "grandstanding" and "ignoring public opinion" on the budget proposals. The President claims that the Congress represents "special interests" and supports programs which are "sacred cows." Yet I submit that the special interests which those of us in Congress represent are the people of our States and the Nation, and such representation is one of the basic principles of our system of Government.

Not only do polls, such as the Harris Survey of February 28, indicate that he people are not in agreement with the administration's budget recommendations, but the evidence I have cited from Arkansas indicates a disageement with the administration's priorities.

Perhaps nothing symbolizes the administration's misplaced priorities more than the plan to spend almost $100 million for foreign broadcasting—$45 million for Radio Free Europe-Radio Liberty and $49 million for the Voice of America and other USIA broadcasting. Meanwhile, through veto, impoundment and other devices, funding for public broadcasting in this country would be limited to $35 million this year and $45 million in fiscal year 1974.

The President is also lacking credibility in his claims about reductions in Executive Office personnel. There are some reductions in the proposed budget, but they are largely a result of transfers and the abolition of the Office of Economic Opportunity. The fact remains that the Executive Office has experienced by far its greatest growth under this administration. "Executive direction and management" is budgeted for $148 million, four times the 1970 budget.

The Associated Press says no precise accounting of White House expenses is possible, but suggests a "conservative" estimate of $110 milion, not including the Office of Management and Budget, which is budgeted for 680 employees and $20 million in 1974, up from $12 million in 1970.

One example of the burgeoning White House bureaus is the Office of Telecommunications Policy. Among its primary activities, or so it would appear, is the circumvention of the authority of the Federal Communications Commission. The OTP's 1974 budget will climb to $3.3 million and among its average of 62 employees there will be an average salary of $22,410. Eleven of the OTP staff members will be paid $30,000 or better.

If the President is truly concerned about "special interests" and "sacred cows," then I suggest he begin by considering the subsidies for the maritime, aviation and defense industries which he so strongly favors.

I ask unanimous consent, Mr. President, to have printed in the RECORD at this point some additional correspondence and newspaper articles concerning the budget and its effect on Arkansas.

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

TOWN OF HATFIELD,
Hatfield, Ark., February 27, 1973.

Hon. J. W. FULBRIGHT,
Senator, State of Arkansas, Senate Office Building, Washington, D.C.

DEAR SENATOR FULBRIGHT: I agree with the President that spending should be brought under control. However, if there is not enough money to carry on capital improvements in our country, I cannot see where foreign aid and the rebuilding of North Vietnam should get priority over these projects here at home.

Our part of the state needs sewers, water, fire prevention, etc., and there is just no way that we can obtain them without help from the Federal Government. The Real Estate assessed value is too low to provide the necessary monies by taxation and, therefore, we have to do without these improvements.

We should like to get a few factories in our community to provide jobs for our citizens. Our children get through school and have to leave us to make a living. Those that are strong enough to stay have to drive to Mena, Waldron, Grannis and other towns to get employment when they should be able to work at home. A factory or two here would also enable quite a few people to get off the welfare rolls and would enable us to improve our economic status so that this community would be independent.

We in this community will appreciate anything you can do to see that our tax money is kept at home and spent on useful projects here.

Sincerely yours,
MILBURN O. HINES,
Mayor.

MARIANNA SCHOOL CAFETERIAS,
Marianna, Ark., February 21, 1973.

Hon. J. WILLIAM FULBRIGHT,
U.S. Senate, Washington, D.C.

DEAR SENATOR FULBRIGHT: Your analysis of the budget proposed by the President to the Congress is something I look forward to each year. It was especially welcome this year when there is much discussion of impoundments.

Those of us in small towns and rural communities are beginning to be afraid to read the morning paper. Each day brings news of another program's demise.

The quality of life has been improved greatly in our area in recent years. Progress is slow and often painful, but programs such as food stamps, school lunches, medical care, book mobiles, water and sewer grants, low rent housing etc. are paving the way for progress. I am sure there are programs which need revision and perhaps some which need to be eliminated. However, I shudder to think of how many "people oriented" programs we are losing and of the effects this loss will have.

Sincerely,
DOROTHY CALDWELL,
Food Service Director.

POCAHONTAS, ARK.,
February 20, 1973.

Hon. J. W. FULBRIGHT,
U.S. Senator of Arkansas,
U.S. Capitol
Washington, D.C.

DEAR SENATOR: I appreciate your stand on foreign policy and the President's "so called" improved budgets and budget cuts. What happens to the American people when we are told our domestic programs will be cut to take care of matters elsewhere?

I feel the community action agencies will sorely be missed, not only by the poor and unemployed but everyone. Much of the money funded to communities was spent right in those same communities. Everyday living will not be the same for many merchants that were doing so well in Arkansas.

What is the President going to do about the services that were once offered by these agencies? Unemployment and health care are of great concern to us all. Revenue sharing funds are already obligated by our city officials . . . (the timing was perfect on the President's part) . . . It appears nothing will be done by a President who doesn't care for the majority.

Many people are disappointed by our new "king's" budget cuts. Let's hope things will change. Only our congressmen can help. Thank you for your past support of the common man.

Sincerely,
NANCY J. HOLLOWAY.

ROGERS, ARK.,
February 5, 1973.

Sen. J. WILLIAM FULBRIGHT,
U.S. Senate,
Washington, D.C.

DEAR SIR: Day after day I read about the programs being dropped or refused funds by President Nixon. They all seem to be programs concerned with ecology, the poor, the elderly, the hungry, the retarded. I have yet to read of a penny being trimmed from the defense budget. I agree that our federal budget is too big, but Mr. Nixon's priorities are not the ones most Americans see as coming first.

I urge you to do all in your power to help the Congress regain it's rightful place in government. If it does not we will soon have a dictator. We aren't far from it now.

Sincerely,
MRS. LOY BREWER.

BENTON, ARK.

Senator WILLIAM FULBRIGHT,
Little Rock, Ark.

SENATOR FULBRIGHT: President Nixon's recent actions have frightened me tremendously. That he can impound money legally appropriated by Congress, cut back on domestic programs, and then increase spending for defense is wrong.

I, as a taxpayer, do not want to support North Viet Nam at the expense of poor people in Arkansas.

I will be supporting any efforts you might make to control Richard Nixon.

Sincerely,
RICHARD WATTS.

FUND DOUBTS HURT STATE BUDGET WORK
(By Robert Shaw)

LITTLE ROCK.—Uncertainty over the continued availability of federal funds for state programs has upset the budget work of the Arkansas Legislature and enhanced the prospect of a special session later this year.

"There are several knowns, but so doggone many unknowns," said Rep. John Miller of Melbourne, House chairman of the Legislative Joint Budget Committee.

Miller said that in all probability a special session will be needed later this year to work on budgets after the legislature learns what the federal government will do. House Speaker Grover W. "Buddy" Turner Jr. of Pine Bluff said there was no question but that the General Assembly would have to return into session.

Turner suggested that the legislature recess at the end of the current 60-day regular session, already more than halfway completed, and come back to finish budgets after getting a better picture of federal funds.

Rep. Wilbur D. Mills, D.-Ark., met with Gov. Dale Bumpers and nine members of the Joint Budget Committee Thursday and Miller said the congressman could not give an optimistic appraisal of the outlook. Miller said Mills cautioned the legislature to budget

conservatively, a piece of advice he gave the General Assembly in an address to a joint session Friday, because "the outlook is not good for reinstatement of federal funds."

Numerous state programs would be affected next year by President Nixon's budget recommendations for elimination of federal funding in some cases and sharp cutbacks in others.

In addition, Bumpers' office reported to the Joint Budget Committee last week that President Nixon already had impounded $16.5 million in federal funds earmarked for Arkansas programs in this fiscal year and was expected to hold up at least another $21.8 million before the year is out. Also, provisions of the federal revenue sharing law will cost the state more than $19 million a year in federal matching funds for social services payments.

Bumpers has guessed that the total effect of federal cutbacks on Arkansas would be between $60 million and $80 million.

Miller said doubt about federal funding existed in programs that receive about 90 per cent of the state's general revenues. Included are budgets for the public schools, higher education and medical and social services, he said.

Miller said there was a suggestion at the meeting with Mills Thursday that the legislature recess at the end of the regular 60-day session and come back into session when "we have a better feel of what Congress is going to do."

The legislature is budgeting for the fiscal year starting July 1 and the following year. Miller said he did not think the General Assembly will know much more by the end of the current year about the status of federal funding for the next year than already is known because "Congress works slowly."

For that reason, he said, a suggestion had been made that the legislature might adopt a contingency resolution declaring that state operating budgets will continue at current levels for the first six months of the next fiscal year with a five per cent automatic increase to cover inflationary costs. He said that action would relieve the pressure for enactment of budgets before the fiscal year begins and postpone the necessity of a legislative meeting until after the federal funding picture clears up.

Miller said, however, that this plan would present too many complications. He said he would prefer that the legislature go ahead and finish its budget work before the fiscal year starts, but write a system of priorities and contingency safeguards into the revenue stabilization act. That law, the last major piece of budget work, makes the final determination of how funds are distributed to the state agencies and institutions.

Miller also said the $41 million reserve fund Bumpers and the budget committee have agreed on would be a hedge against problems. The fund has been proposed to meet unanticipated costs and cushion against a possible need for a tax increase in 1975.

The committee will begin work Monday on the capital improvement program that is to be financed from the surplus of general revenues accumulating in the state treasury. Bumpers is to appear before the committee to outline his own program for spending about $91 million of the fund, which may reach $100 or more by the end of the current fiscal year.

Miller said the doubt about the federal funds for operating programs may make the legislature more cautious in spending the surplus.

LITTLE ROCK, ARK.

DEAR SENATOR FULBRIGHT: I want to express my concern to you for the way in which the President has been allowed to change the priorities of the nation, in the curtailment of funds for education, health, mental retardation, and many other programs for social good. It grieves me very much that our government would turn its back on the weak, poor, helpless and hopeless in our society. To me, this is a moral outrage. *Please* do all in your power to make our government responsive to *all* the people—not just the military and large corporations.

I know you are speaking out strongly in bringing Congress back into its rightful position, and I hope you will continue to lead in this important work.

Sincerely,

MRS. HARLAN T. HOLMES.

DARDANELLE, ARK., *February 26, 1973.*

DEAR MR. FULBRIGHT: My name is LaVina Warren. I live in Dardanelle, Arkansas, with my husband and our three children. My husband is the Medical Technologist in Dardanelle Hospital, and I am a Registered Nurse and work part time in the same hospital and the doctor's clinic here.

We pay our share of taxes which I am beginning to resent more and more. That is part of the reason I am writing to you.

The President's budget is utterly ridiculous. His idea to send billions of dollars to Viet Nam and withhold on our needs is really depressing. I don't want our tax money sent anywhere until our own country's needs are cared for

The elderly, the indigent, the sick and the hard working people of America are going to be hurt by this proposed budget.

This plan knocks the props out from under many worthwhile, necessary projects that are already begun and will be left to gather spiderwebs and dust.

Please do everything you can to block this attack on us, the citizens of the United States.

One of the projects to suffer in this area is our library with its bookmobile. This bookmobile reaches people without transportation, invalids, people in rural areas; these people look forward to this—is it right to deprive them?

Charity begins at home. The President is quickly destroying individual initiative through these plans and excessive taxation.

Sincerely,

LAVINA WARREN.

HOW DOES ARKANSAS FARE? THE FEDERAL BUDGET AND CONSERVATION

(By John Fleming)

Natural resources and the environment came up with 1.4 per cent of the federal budget. The two areas of concern for Arkansas conservationists finished dead last. Agriculture and rural development, subjects of vital concern to all the rest of Arkansas either directly or indirectly, came in next to last at 2.1 per cent only seven-tenths off the bottom. National defense got a big slice of the $268.7 billion total with 30.2 per cent.

It is nothing new for natural resources and the environment to run dead last in the budget sweepstakes. Environmentalists, however, have been optimistic that the hue and cry over natural problems would bring at least a slight increase. Instead they got a cut.

What probably will irk the hard-working environmentalists most comes in the fact that outdoor recreation and some resources funds will be slashed while there will be more money for offshore oil and gas and no outright prohibitions against strip mining. Irritation about the offshore oil drilling decision will probably be offset somewhat by the fact that the energy crisis is looming as very real rather than a fabrication of the utility companies.

The Department of the Interior, under the new budget, would suffer a $365,776,000 cut. The Land and Water Conservation fund would get nicked for $244,757,000. This is rather radical in view of the fact that the last budget was $300 million—the slash setting back the funds to $55,233,000. For the moment, the cut is tempered somewhat by the fact that there is $239,600,000 in carryover funds. The obligation program now stands at $263,400,000—only $23,800,000 short.

The Bureau of Sport Fisheries and Wildlife does all right on an overall basis with an increase of $3,241,000. However, one of the cutbacks will have some effect in Arkansas. The wetland acquisition program has been cut back from $14.1 million to $7 million which is the exact amount anticipated from the sale of duck stamps. Nor will BSFW get any money from the Land and Water Conservation fund—a loss of $4,602,000. Getting a raise in areas that might help Arkansas is the migratory bird coordination program and construction funds for refuges, hatcheries and research facilities.

Of primary importance to Arkansas is the fact that $9,800,000 has been allocated for 11 new areas and for additions to three existing areas. The Buffalo National River is included in this category. Overall, the Park Service is tagged for an increase of $54 million but much of this is earmarked for the 1976 Bicentennial observance. However, some of this money could filter into Arkansas since some of the funds can be used by the states to acquire historic sites in connection with the 200th anniversary of the Declaration of Independence.

The Forest Service gets nicked for $104,828,600—down from $561,800,900. The cuts include $23,083,900 from construction and land acquisition which could have a most adverse effect on the public recreation areas run by the Forest Service. Funds for roads and trails are down $71,140,000.

A bright spot for the opponents of channelization comes in a big cut for the Soil Conservation Service but this won't affect the Cache River which is in the Corps of Engineers and for which funds have already been appropriated. The Extension Service gets a $2.5 million increase.

Corps of Engineers figures are down $116 million but this is a small percentage since the total comes to $1,479,000,000.

Another of the few bright spots in the budget is the increase from $3,500,000 to $10 million for the Youth Conservation Corps.

[From the Arkansas Gazette, Feb. 27, 1973]

FEDERAL PARKS AID CUT, JBC TOLD

Only part of the $5 million in federal aid that the state Parks and Tourism Department has anticipated for the next two years, probably will be available, the legislative Joint Budget Committee learned Monday.

William E. Henderson, director of the Parks and Tourism Department, told the Committee it appeared that the Department could expect only about $325,000 from the federal Bureau of Outdoor Recreation rather than the $1,250,000 expected when the Department made its budget request last fall. Cutbacks by the Nixon administration are responsible.

Governor Bumpers had recommended that the legislature spend $4,597,149 from the general revenue surplus for the development of parks and historic sites. Henderson told the Joint Budget Committee that federal developments had raised the governor's request to $4,925,727.

The governor's original program anticipated federal matching funds of $5,047,322. Henderson said after his appearance before the Budget Committee that the outlook now was for no more than $3 million.

[From the Northwest Arkansas Times, Mar. 2, 1973]

LOSS TO EXCEED $1 MILLION: NIXON CUTBACK HITS COUNTY HEAVILY

Washington County stands to lose more than $1 million in federal funds as a result of cutbacks by the Nixon administration, it was revealed Thursday afternoon at a meet-

ing of representatives of social agencies involved.

The representatives met at the Fayetteville Chamber of Commerce to compare notes. The only optimistic note was sounded by County Judge Vol Lester, a Republican.

"We won't know anything until the fight is over in Washington," Lester said. "The president is trying to re-group and re-channel. There is some undue feeling and alarm, but we won't see things cut. There will be some trimming, some services channeled through other methods but the president's purpose is to get rid of bureaucracy.

"I have so many priorities projected for the next five years that $50 million wouldn't take care of the county. We will just have to sit by and see what happens," he said.

Less optimistic were agency staff members who reported cuts already implemented and more anticipated.

The meeting sponsored by United Community Services (UCS), was attended by 11 agency spokesmen, school, city and county officials whose reports indicated the dollar figure but no one was willing to even guess how many lives the cutbacks in social services may affect.

Miss Betty Lighton, president of UCS, said the purpose of the meeting was to compile agency reports to inform the community so it will know what may happen to social services.

John Lewis, co-chairman of the meeting, and president of the Fayetteville United Fund, said the United Fund needs to know where cuts are being made, and how they will affect programs.

"We need to begin to gather information so we know where we stand. Even though an exact total is not known we need this information so we can decide on the next steps," he said.

Fifty-five letters had been mailed to agencies and 12 reported the dollar and cents loss. This was augmented by Don Grimes, Fayetteville city manager, who estimated the city's loss from past grants will be $400,000 in water and sewer funds. $200,000 in Urban Renewal funds and $60,000 in parks projects.

Al Griffee, executive director of Abilities Unlimited, said cuts are unknown except that $1,500 a month will not be funded in the next fiscal year, and funding will continue on a month to month basis and may not last until June. Changes have already been made in the Work Activities Center in that only persons already receiving disability assistance will be eligible.

"This means we have to cut out 11 clients now participating," he said.

Other funding cuts are not known but Griffee said he was to meet in Little Rock March 15 to present an "austere budget" for operation.

"We just don't know what we will have to operate with but expect substantial cuts," he said.

Charles Johnson, executive director of the Washington County Economic Opportunity Agency, said EOA will lose $168,000 and this will remove administration of the program and local initiative programs.

He noted that efforts are being made on a state level to continue the program and that dismantling of the National Office of Economic Opportunity does not necessarily mean dismantling of the local EOA, which is a state corporation and can continue if funding is made available.

Johnson said the summer Neighborhood Youth Corps (NYC) program, which last year had 450 enrollees in Washington and Benton Counties and was funded at $80,000, has been cut out.

Carmen Lierly, director of the Uptown School in Fayetteville, said the proposed cutbacks mean a loss of $73,000 to the public schools. He itemized this as $20,000 for vocational education; $14,000 in Title I funds, which includes the Uptown School, a special program for drop outs; $24,000 in impacted areas, and $15,000 in library funds.

He said much of this has been picked up by the school district for this year as some of the cuts were anticipated and not budgeted.

Walter Jesser of the Arkansas Rehabilitation Service, a state-funded service, said funds have not been appropriated by the state legislature yet but "we understand it will operate at the same level. This means we will not be able to do some things because inflation takes its toll."

LIBRARY HURT

Carol Wright, director of the Ozarks Regional Library, said the library will lose $30,312 in federal funds and the outcome is not known at this time. She said that $15,000 of the money has gone into books and the remainder into three and one-half salaries.

"We will have to cut services and book budgets," she said. She also noted that the state Talking Book Service is expected to be cut by 70 per cent. "This means we will have to cut back our service to local patrons," she said.

Barbara Crook, representing the Washington County Council on Drug Abuse (CODA), said no federal funds are used in the program but efforts are being made to raise $20,000 locally to employ a coordinating staff.

She also said that ADAPT, the drug education program in Fayetteville and Springdale Schools will continue through the end of the year. The grant was for a one-year program.

Thomas Hubbard and Diane Boyd of Arkansas Social Services said a considerable amount will be lost but no dollar amounts are available. Mrs. Boyd explained services will be cut back and unavailable to any one who is not already on public assistance.

Bill Parette, spokesman for the Washington County Public Health Center, said he will not know how public health is affected until after the legislature acts.

[From the Pine Bluff (Ark.) News, Feb. 8, 1973]

THE AGE-OLD BATTLE—CONGRESS HAS POWER

The age-old battle between the executive and legislative branches of the federal government has broken out again in the current dispute between President Nixon and the Congress over spending appropriated federal money.

President Nixon, claiming a determination to hold federal spending to a $250 billion ceiling as approved by the last session of Congress, has ordered extensive cutbacks in many domestic programs, thus incurring the wrath of some Senators and Congressmen who claim he cannot embargo funds already approved by expenditure by Congress.

It's not a new issue. It dates back at least to the time of Andrew Jackson in the 1830's the first really strong, President who claimed a mandate from the people for his actions. He contended not only with the Congress but also with the judiciary, and began the trend towards a strong executive that has continued, with variations according to the occupant at 1600 Pennsylvania Avenue, to the present time.

Sen. William Fulbright, and some others of that elite body, have protested vigorously, and with some justification, that the President is usurping the powers of Congress by refusing to carry out the programs and allocate the funds voted by the legislative houses.

The question of ultimate power among the governing branches as a constitutional question is really pretty academic by now. The Presidency has become so powerful, the bureaucracy he heads (but does not control), has become so gargantuan, that the President can find justification and precedent for just about anything he wants to do.

The ultimate control, however, still resides in the Congress. For the Congress, if it chooses, can do just as Sen. Fulbright is now suggesting: withhold funds for foreign aid, or other projects held dear by the President until he agrees to spend other monies for domestic programs already appropriated by the Congress. And, for a completely recalcitrant President, the Congress, as a final resort, can impeach the President and remove him from office to force its will upon him.

Such a threat has been made only once in the nation's history, when President Andrew Johnson was impeached following the Civil War. The impeachment trial, however, failed to carry the Senate and Johnson was spared. The fact remains, though, that Congress does have ultimate constitutional control over the Executive should it wish to exercise that power.

On the substantive question of President Nixon's budget declarations, and his determination to cut federal spending in a bid to slow inflation, hardly anyone could disagree with the goal of a balanced budget. We'll have to agree with Sen. Fulbright and most other Senators and Congressmen that the cuts should be made in military expenditures and foreign aid rather than in domestic programs, education, and agriculture.

FRANK PERDUE IS CHICKEN

Mr. MATHIAS. Mr. President, an outstanding entrepreneur on Maryland's Eastern Shore has made marketing history by convincing chicken lovers along the east coast that "it takes a tough man to make a tender chicken." Maryland's Eastern Shore with its loyalty to basic principles is about as far as you can get from the superficiality of Madison Avenue, New York, in spirit, if not in miles, but Frank Perdue has taught the advertising men something about their own business. What is more, he has kept the customers that an award-winning advertising campaign has brought him, by providing them with a product they are willing to ask for by name again and again. His achievements have been noted in April 1973 issue of Esquire magazine, in an article by another Marylander, Frank Deford, writing under the name Christian McAdams. 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:

FRANK PERDUE IS CHICKEN!

(By Christian McAdams)

(Eighty million dollars a year's worth, and that ain't chicken feed. In point of fact, some of it actually is.)

Chickens.

This is the story of how one lone baldheaded man from a small town on the Delmarva Peninsula took chickens, millions of chickens, and, attacking through the soft underbelly of Madison Avenue, conquered New York City.

Chickens?

Regrettably, although chicken is one of the most commonplace foods in the world, there has, till now, been little public disposition to stop and contemplate it. As a prime case in point, it is a fact that very few people even know where the Delmarva Peninsula is, but it was there that chicken, as we know it, was invented (and that is precisely the right word). People not in chickens are always asking Frank Perdue exactly what about this Delmarva Peninsula. Most Americans are also under the impression that you need roosters to make eggs. Frank Perdue spends a lot of

time clearing that up too. Frank Perdue of Delmarva is fast becoming the single most important man in the history of chickens. "We're creating chicken awareness," he proclaims evenly, but with zeal.

"We're out to humanize the chicken," declares his advertising account executive.

Chickens have a great deal going for them these days, even over and above the remarkable Mr. Perdue. For example, while chicken is the most international of foods, it has recently become a good old-fashioned flag-waving Fourth of July symbol of all the best of that traditional American know-how and business ingenuity. If U.S. appliances now must be planned for obsolescence, if steering wheels may not be altogether attached, if telephone service and mail delivery confound our best minds, there is a solace in learning that American chickens are being made cheaply and more efficiently than ever. We even export chickens to Japan and undersell the homegrown bird. If God had made radios with breasts instead of transistors, the U.S. might still be a first-rate economic power. As it is, chicken is about the last free-enterprise industry in America. Chicken is produced in a no-holds-barred, rags-to-riches, no-control system, at the fascinating confluence of all the commercial strains in the land: the chicken is where the most volatile elements of the assembly line, of the farm and the field, and bid-and-ask all come together.

Frank Perdue is good at making and selling chickens because he is as unique as his industry. In a mobile business world of rootless transients, Perdue still draws strength from the timeless bosoms of family and place. He remains the son of the father and of the sere loam land where he and chickens were raised. Over the last fifteen years, fancy-pants big-time companies like Pillsbury and Ralston Purina have not been altogether successful in the chicken business; Perdue Inc. has never once had a losing year. "Yeah," says Perdue, "and economists in universities have been saying every year since 1930 that the country was saturated with chicken."

Perdue grew up on his father's chicken farm and has been in the work all his life, but he has only been processing his chickens (and selling them under his own name) since 1968. Since then, he has raised his production to 1,500,000 chickens a week. That averages out to 300,000 slaughtered every day, since chickens also work a five-day week. Perdue Incorporated, wholly owned by the family, produces two percent of all chickens in the U.S. and more for New York City than anybody. About one out of every six chickens devoured every day in the nation's largest market is Frank Perdue's.

He has pulled off this blitz with advertising. Frank Perdue is the very first person who has shown that brand-name chickens can be advertised, that consumers can be at least as discriminating about the chickens they eat as they are about hair sprays or toilet paper. He believes that supermarkets must stop treating chickens with contempt, as "loss leaders." He is ready, in fact, to take on the whole "red-meat" gang. "Freeze my chickens?" says Perdue with contempt in one of his commercials. "I'd rather eat beef." At his ad agency—Scali, McCabe, Sloves—people talk about hot dogs as if they were so much snake venom.

Chickens come to the war with some real momentum. Consumption is up better than fifty percent per capita in hardly more than a decade. Obviously, part of the attraction is that chicken is a good buy, but poultry is also very healthy, with low cholesterol content (though it is high in eggs). "Come on folks, shape up. Start eating my chickens!" cries Perdue in one commercial, as the camera focuses on a bunch of obese dolts eyeing the red-meat freezer. Also, chickens are blessed with almost universal acceptance, and that is not just advertising hoopla. The bird was domesticated well over three thousand years ago, and perhaps even long before that inasmuch as legend identifies Gomer as the first chicken man. Gomer was Noah's grandson. Nowhere in the world have there ever been any religious taboos held against chickens, and almost every nationality has found a favorite place for them in its cuisine. Just think of coq au vin, chicken chow mein, arroz con pollo, chicken cacciatore, not to mention drumsticks and the thousands of witless Jewish jokes we must endure featuring chicken soup.

Finally, since the same laying hen could theoretically lay 365 fertilized eggs a year—and does, in fact, lay upwards of 200—chickens are a geneticist's dream. In fact, almost all the chicken we eat today is a modern creation, of about the same vintage as television. It seems absolutely mad to say this today, but before the broiler chicken was conceived in Delmarva around 1930, chicken was a very limited, seasonal food. You could no more just up and go to the market on a Wednesday in January, say, and get a nice tender chicken, than you could order an ear of fresh Iowa corn that day.

In those days, the best eating bird was the so-called "spring chicken." Traditionally, it was served for the big family lunch, and so was also known in the vernacular as the "Sunday fryer." These spring chickens were—as you can probably deduce if you remember the old expression "He ain't no spring chicken"—lively young roosters. Now, if you have been with us since the start of the semester, you will recall that it does not take roosters to make eggs. Roosters are only required in attendance if you want to make baby chicks in the eggs, but even then it only takes one good rooster to service every ten congenial hens. It may come as no great surprise, then, to learn that there is evidence now which suggests that the roosters give out before the hens. All a chicken farmer ever had to save was ten percent of the roosters born. "You might say roosters were virtually offal," Perdue explains. So, the ninety percent unneeded males were killed and ended up on Grandma's table as tender spring chickens. The rest of the year, the hens laid unfertilized eating eggs "table" eggs in the business), and the surviving roosters just roamed around till the next spring when their stud talents would have to be put to use to produce the next generation of laying hens.

The Delmarva broiler changed all this. Otherwise, Colonel Sanders and Shake 'N Bake and Chicken Delight and Chicken Hut wouldn't yet be in the Yellow Pages, because the broiler is, simply put, a spring chicken now available in quantity all year round. The broiler became a reality because somebody decided that advances in the chicken diet made is possible to grow a mature chicken just for eating—and at a profit. The time it takes to grow a chicken gets shorter all the time. "Just twenty years ago," Perdue says, "it took sixteen weeks to grow a three-pound chicken. Now we grow a four-pound chicken in less than half that time. We are producing chickens with bigger breasts and legs—and fast growth means tenderness too."

The prime factor in the whole equation is what is called the "conversion rate," which is: how much chicken food does it take to convert into chicken meat? Not so long ago, it took three pounds of feed to produce a pound of chicken on the hoof. Now it takes hardly two pounds, and further reduction in the rate is casually anticipated. Perdue has Ph.Ds talking to computers, seeking to construct a better diet, at a good price, for his chickens. "See," says one, hunched over a readout. "I'd like to give 'em some crabmeat, but even at minimum prices, the computer rejects it." Whatever, Perdue always makes sure that his chickens get extra doses of xanthophyll, a high-priced ingredient that gives Perdue chickens their golden-yellow color. It is sort of a chicken Man-Tan. Somewhat hopefully, Perdue volunteers that xanthophyll also "adds freshness," but even an expert in his own laboratory dismisses the substance as a harmless cosmetic "gimmick." Nevertheless, Perdue and his admen are convinced that it sells chickens, and his chickens certainly are well-fed enough, whatever their color.

"A chicken is what it eats," Perdue explains in one of his ads. "If you want to start eating as good as my chickens, take a tip from me. [Pause.] Eat my chickens."

This high-priced advertising campaign, featuring Perdue himself as A Tough Man Who Makes A Tender Chicken, has been revolutionary in the business, since it has shown that fresh meat can be peddled. Previously, the only substantial advertising in the meat industry was found in the packaged end, with things like "I wish I were an Oscar Mayer wiener" and "More Parks Sausages, Mom." In chickens, it was customary for an advertising budget to consist of whatever it took to buy the obligatory ads in trade journals and local high-school yearbooks. But once Perdue decided he could sell his product to the shopping-cart trade directly through advertising, he went all out. Trade figures show he spent almost a half-million dollars on TV spots in 1971, and another $50,000 for radio. For 1972, Perdue admits that his ad budget climbed into "the high hundreds of thousands."

All of this discombobulated a previously placid market. "Before, customers never specified anything but Grade A chicken," says Ed Caraluzzi, master butcher at the suburban Redding Ridge, Connecticut, market. "Then, suddenly, they all started coming in asking specifically for Perdue. I even have one lady who wrote him a letter. We're expanding our store over in Bethel, and I want to get Perdue to come to the opening. Do you know another name in the business?" Hills, a large supermarket chain, put Perdue, at thirty-five cents a pound, up side by side against a house brand going for twenty-nine cents. Incredibly, a full forty percent of the customers opted for Perdue at the premium price.

Obviously, such a spectacular sustained response cannot all be attributed to advertising, and Perdue chicken is, by all accounts, a superior product. His Delmarva neighbors—who call him Squeakie behind his back—are the last ones to take it all at face value, though. "Squeakie is really putting on," says one in admiration. "He goes on and on about how nobody freezes his birds, but he's got no control in those little stores. Besides, like they say: chickens is chickens. You couldn't tell any real difference in taste in almost any good bird grown anywhere around here. Squeakie's a smart sonuvabitch, and he's tough, and he's built a great organization, and then he's got all those New York people convinced that that golden-yellow foolishness means something. Hell, the truth is there's sections of this country where people look for white chickens. They think white chickens are supposed to be the tasty ones."

Yet the commercials have been so effective and original that, in New York, the man from Delmarva has become a daytime-TV celebrity, as familiar a part of that strange milieu as Monte Hall, Jan Murray or Rose Marie. Perdue can no longer walk down the streets or reconnoiter butcher shops in New York without people staring at him and exchanging chicken anecdotes.

Flat-out bald, with a prominent nose and a droll nasal screech, Frank Perdue can appear wizened or crotchety on TV, but this impression is misleading. In real life, he is a

lean, aggressive man, six feet even, one sixty-five, spare and direct. He comes from an overlooked piece of Atlantic real estate, Delmarva, the name and acreage both tacked together by parts of three contributing states—DELaware, MARyland and VirginiA. Perdue has lived all his life around Salisbury, Maryland (population 15,252), which is the main commercial center on the peninsula. Salisbury is located thirty miles inland from Ocean City, where Perdue's forebears landed two or three hundred years ago from France. They were Huguenots, named Perdeaux. All anglicized their names, and while some fanned out across the land (Purdue University—with a *u*—in Indiana is probably from the same strain), many never departed Delmarva. There are fifty-seven Perdues in the Salisbury phone book, as compared with nine in all of Manhattan.

This is not unusual, for Delmarva is a clannish place. Historically, it has remained a land and a people apart, even though it lies in the very shadow of the greatest megalopolis in the world. Effectively isolated by the Chesapeake Bay on its west, though, Delmarva has been dismissed by neighboring urban sophisticates as "a male teat of land." All around it, a nation was formed, glorious battles fought, huge cities built to the heavens. Delmarva trundled along at its own pace. It is about the size of Connecticut, but with only 425,000 people—fourteen percent of Connecticut's population. Aside from chickens, nobody from the peninsula has ever made much of a splash in the outside world—the exceptions being a couple of old ballplayers, actor Robert Mitchum, and a wild pony named Misty of Chincoteague. Few outsiders visit the Shore except to speed through to the Atlantic beaches or to bivouac on the Chesapeake tributaries and blast ducks out of the sky.

If Frank Perdue were not tremendously shaped by this original environment where he has spent his whole life, then he would be a dull, insensitive man indeed. On the contrary, the Perdues are obviously marked by the place, if attended only by its finer instincts. Frank Perdue and his father, Arthur, are quite different people, though complementary. The bold younger man expanded from the solid base the older, conservative one had laid. "I had the asset of my father's good name," Frank says. "My father was so tight that he'd take the tops off his shoes. He'd take 'em after he'd half-soled them a dozen times, but the tops were still good, so he'd cut 'em up and use them for hinges for the chicken-coop doors. You see, people would lend this man money."

Arthur Perdue, or "Mr. Arthur" as he is known now, is eighty-seven, keen and straight, and with a full head of hair. "Maybe you can't have hair and brains both," he says of his son. Following completion of the twelfth grade, he worked for Railway Express; but in 1920, in his thirty-fifth year, the year his only child was born, the company wanted him to take over an office outside Delmarva and he didn't want to leave. Instead, he built a coop, paid five dollars for fifty leghorn chicks, and entered the chicken business.

Well, of course, he really wasn't in chickens. He was in table eggs. Young Frank, an introverted and reticent boy, had no enthusiasm for the family business, but after a couple of desultory years at the local teachers' college he decided that he was better suited for chickens than scholarship. This was 1939; slowly, from there, the operation began to tilt from table eggs to broilers.

By the 1950's, the Perdues were one of the largest producers of broilers on the Shore. They hatched their own, fed them the Perdues' own mix, and grew them to maturity. They would sell the birds at the Delmarva broiler action on Route 113, just the other side of Selbyville, Delaware. The buyer would slaughter Perdue birds and send them to market under his own name. After 1968, when the Perdue family decided to process its own birds, business moved so fast that Frank Perdue had to build a second and much larger processing plant in Accomac, Virginia. There were four employees in 1940, about 200 in 1960, 400 in 1968, and now over 1800.

"I could sit here and say I planned all this," Perdue says, "but I was just back there with my father and a couple other guys working my ass off every day. I wasn't even sure for a long time that I even liked the chicken business. But my advantage is that I grew up having to know my business in every detail. I dug cesspools, made coops and cleaned them out. I know I'm not very smart, at least from the point of pure I.Q., and that gave me one prime ingredient of success—fear. I mean a man should have enough fear so that he's always second-guessing himself. And then, finally, I adhere to the philosophy of a great man."

He reached into his crowded wallet and pulled out a wrinkled clipping, although it was unnecessary, inasmuch as he knows the quotation by heart and inserts it at regular intervals in his "Straight Talk . . ." column in the company newsletter. The words are Alexander Hamilton's: "Men give me some credit for some genius. All the genius I have lies in this. When I have a subject in hand, I study it profoundly. Day and night it is before me. I explore it in all its bearings. My mind becomes pervaded with it. Then the effort which I have made is what people are pleased to call the fruit of genius. It is the fruit of labor and thought."

Chickens are not very glamorous, but when Madison Avenue learned this man from Delmarva was ready to take a big plunge into advertising, everybody scrambled for the account. So many people were fawning all over Perdue that it made him uncomfortable. He pulled out of the agency search, and went back to Salisbury and cozied up again with Alexander Hamilton. "I just said, 'Perdue, you can't get anywhere with these guys because they're all on their best behavior for you,'" he explains.

To make sure that nobody put him at that disadvantage again, Perdue pervaded himself with advertising, day and night. He devoured great volumes on the subject, and can still drop quotes by people like David Ogilvy and Rosser Reeves the way other people cite the Bible or Shakespeare. He haunted an advertising institute, studying all pamphlets and textbooks. He called up advertising journalists and radio- and TV-station managers in New York, systematically trying to pick brains. Almost nobody knew him, but many helped simply because they were impressed by his inventive industry. Says Alan Pesky, the Account Supervisor for Perdue at Scali, McCabe, Sloves: "We have some pretty large and sophisticated clients, but never have we been examined as carefully as this one man examined us."

By the time he set himself up to be courted again by Madison Avenue, Perdue was an expert. Some of his tips:

Look for a *young* agency. Perdue told one of the top admen in the country that he would not even consider him because he was too old. The man was fifty-one. Perdue's own age. "This sonuvabitch in chickens comes up here from nowhere and tells me I'm too old," the man screamed in anguish.

Try to meet as many creative people as possible in an agency. Don't be snowed by one hotshot, but look for creative depth, where ideas can be bounced around, because even the cleverest copywriter can come up empty for any given campaign, and if it's yours, and there is no one else good in the bullpen, you'll be hurt badly.

For reference, don't just call an agency's present clients. Also call the clients that left.

Be wary of any prospective agency that wants to impress you with a full-scale presentation of the sort of campaign they plan for you. They are borrowing time and creative energy from their paying clients to try and attract new business, and if you hire them, someday they may rob you in the same way.

The total billings an agency has are important, but more revealing is the average of its billings. The higher the average, the more select, the better attention. "An agency with a lot of $50,000 accounts is going to get pecked to death with phone calls," Perdue says.

And above all else, *ignore the president of the agency.*

"I learned that just by being prepared," Perdue says. "I found out what few people on the outside ever do, that most heads of agencies are nothing but front men. Their only job is to go around sweet-talking new business and keeping present business happy. I figured that out just from reading. At one big presentation, I finally had to tell the president: 'Will you please shut up and let your creative people talk?'"

Altogether, Perdue interviewed almost fifty agencies, and while there were some dismal encounters, only once did he feel that he was being put down as a hick. Ironically, this happened at a bright young agency which had conceived a personalized campaign featuring Perdue himself—similar to the concept eventually employed at Scali, McCabe, Sloves. "But there was quite a difference," Perdue says, getting shriller, wrinkling his nose at the memory. "Here was the bit. They were going to put a live chicken under each of my arms. Live chickens! Now let me tell you, there's nothing more revolting than a live chicken. It ain't nothing green and pretty like selling red meat, with a big Holstein grazing quietly by a flowing river with the majestic trees waving in the breeze. No, it's just me standing there holding a couple of squawking chickens. And then they tell me, "We're going to call it *Frank's Friendly Flock!*" I just said, 'Perdue, why don't they put you in a Dan'l Boone cap too?'"

Eventually, Perdue narrowed his list of agencies down to a championship flight of nine. Then he really went on the offensive, grilling, double-checking, interviewing. He called up one very prominent agency and asked them to have lunch with him in the Oak Room of The Plaza Hotel. The whole top executive force trooped over to The Plaza, licking their chops, convinced Perdue was going to tell them that he had selected their agency for his chickens. Instead, as soon as they settled at the table. Perdue informed them that they hadn't even made his final list, but he would appreciate it if they would rank the nine agencies that were still left in the running. Stunned and flabbergasted, the agency boys dived into another round of Martinis and patiently did as he requested.

But the losers were the lucky ones. When Perdue called up Ed McCabe, the baby-faced copy chief at Scali, McCabe, Sloves, for about the eight hundredth time in a week, McCabe finally blew his cork. "You know, Frank," he said, "I'm not even sure that we want your account anymore because you're such a pain in the ass."

McCabe recalls: "You know all he said to that? He just said, 'Yeah, I know I'm a pain in the ass, and now that we've got that settled, here's what I want to ask you this time.'"

Sometime after he picked McCabe's agency, Perdue learned that the campaign would be built around himself. He never cottoned to the idea, and after the first day of filming in Salisbury, he came up to McCabe at the bar and told him he thought he would probably still end up throwing out the whole batch of commercials. McCabe stared back hard at the man who had hired him. "No,

you don't intimidate me with that, Frank," he replied. "You don't, because you're not qualified to make this kind of judgment, and you're one man who's too honest not to know that." For once, Frank Perdue lowered his eyes and backed down.

One of the very first commercials they shot won an award. Ed McCabe won more honors for his work on the Perdue campaign than any other copywriter in the nation that year. Frank Perdue became the biggest chicken man in the nation's biggest city, and a celebrity to boot. "I could write a book about advertising," he says, matter-of-factly.

Chicken is a very tricky business because it deals with a perishable item that is mass-produced. This can mean the worst of both worlds. On the one hand, there are all the usual labor problems, machinery problems, assembly-line problems, transportation problems that threaten any big manufacturer. But as bad as things might ever get at, say, the Vega plant in Lordstown, Ohio—sabotage, strike, faulty parts, whatever—at least no one in the office ever has to worry about a foreman calling up and saying, "Listen, I'm sorry but we just had 82,000 transmissions die on us."

The chicken business means big numbers, and small margins for error. There is absolutely no romance in it, not even for Frank Perdue. "The only thing worse than chickens," he declares, "is the dairy business, because there you got to milk the cows every twelve hours."

Perdue's chicken business begins at the breeder farms, where Perdue keeps about 700,000 laying hens and 70,000 escort cockerels. These birds have the best jobs in chickendom and usually live up to fifteen months, at which point they give out. The hens start producing eggs when they are twenty-two weeks old, and reach their peak around thirty weeks, when they attain an 85-percent rate, which means 85 eggs for every 100 hens every day. Then, of the eggs laid, 85 percent have "hatchability." It takes twenty-one days in the huge Chick Master incubator trays for them to hatch, and, it seems, they have a better on-time record than most airlines.

Chickens still possess air sacs, vestiges of a time thouand of years ago when they could really fly. Now, all that the useless air sacs do is fill up with unwanted fluids, making chickens very receptive to respiratory disease. As a consequence, almost the first thing humans do to live chickens is vaccinate them, when they are two weeks old. At the same time, the tips of their beaks are removed to prevent them from pecking each other. By now, the chicks have already been moved to one of the 560 broiler farms on Delmarva that Perdue has under contract.

The broiler farms are mainly mom-and-pop operations. The parent broiler company supplies the chicks and feed, supervises and inspects, then returns for the full-grown broilers after nine weeks. The grower works on guarantee or percentage, and chickens are good to get into now because they don't take much space. Says Perdue: "A man in cotton or tobacco or truck farming, one of them, if he has to go out of business now, he has a choice: he can either go to work in a factory or he can put in chickens."

Many contract farms also raise corn and soybeans and other crops. Chickens are just another crop, that's all. But it doesn't take up much space, and the crop is a wonderfully dependable one. In any given calendar year, the only time that broiler production is not fairly constant is for a brief stretch in the fall, when the growers cut back in deference to the upcoming Thanksgiving and Christmas turkey binges. Perdue does not raise any turkeys although his admen want him to get into them, as well as things like Rock Cornish hens, chicken soup, chicken specialties—the whole poultry rainbow. Turkeys, however, are extremely seasonal, and they are harder to deal with than chickens. Chicken people are very proud of this. "You think chickens are dumb," said Frank Wood, the Perdue personnel head, chortling. "You should see turkeys." Turkeys are so dumb they even have to be coaxed to eat with shiny marbles in their food and other comeons; in this respect, turkeys resemble people more than they do chickens.

But anyway, chickens. After nine weeks, the broilers weigh four pounds or so and are ready for dining-room tables. At this point the business really comes to a crunch because it is imperative to estimate accurately how many chickens should be killed on a given day (and also, at the same time, how many eggs should be incubated nine weeks hence). You can keep the mature broiler on deck for up to as much as a week, but that can destroy your profit margin inasmuch as chickens are most anxious to keep on eating while they are alive. Worse, big chickens don't sell well these days.

The slightest miscalculation about exactly how anxious people will be for chicken tomorrow (and nine weeks from tomorrow) can cost many thousands of dollars a day. The 300,000 birds Perdue kills on an average day translate into a retail potential of something over $300,000 a day. Great sums are obviously at stake in a bustout business.

The decision is made: so many thousands of eggs to the incubators, so many thousands live broilers to the processing plant. Around midnight, the chicken catchers go out to the farms where today's nine-week-olds are residing. The way you catch chickens if you make a regular living out of it, is you turn out all the lights, sort of herd all the chickens down to one end of the house, and start swooping down. A proficient chicken catcher will come up with three chickens per swoop, grabbing each by a leg. Then he will swoop again with his other hand: three more legs, three more chickens. Four handfuls, twelve chickens, are deposited in a coop; a truckload totals 5400 birds. They are taken to one of the processing plants and wait for the workday to begin.

The largest, most modern Perdue plant, near Accomac, Virginia, is just a lovely place for a daily carnage. It is a handsome, red-brick building, modern in style, with fancy lighting, landscaping and a big American flag flying out front. It gets rid of its waste so that ecology is served and nobody smells a thing either.

Anybody driving by would think it was a very desirable factory making something respectable in the way of *light industry*. Inside, it is just as deceptive, too, being cool, neat and clean. The slaughterhouse is, in fact, a much more orderly and civilized place than that other big building where the chickens have to go: the supermarket.

Almost everything in the processing plant, including the actual butchery, is automated. There are things like the giblet chiller and the automatic gizzard-cleaning machine and they don't seem much removed from the Coke machine and whatnot down the hall in the big, modern cafeteria. It is all much the same, shiny and tubular and moving at a good pace. The employees get a half hour off at ten; lunch is at twelve-thirty. The chickens themselves started going to "receiving" at six-forty-five. There, they are fetched out of their coops on the truck, and hung upside down on the assembly line by their feet, a position they will remain in almost exclusively until they are packed in ice and put on a delivery truck about an hour later. But there are many stops along the way. First, from receiving, the chickens pass quickly through a vat containing an electrically charged saline solution, which shocks almost all of them senseless. Limp but unhurt, the birds move directly to the Kill Room, where a sharp blade automatically slits the throats without ado. It is, in fact, very difficult to perceive exactly at what point on the line the birds are getting theirs unless you are looking specifically for it.

About two or three percent of the assembly-line broilers do escape being sufficiently shocked, and occasionally lurch out of the way of the blade. They are taken care of by a "backup killer", a human being with a knife. Backup killers get paid about half-again more than others on the assembly line, as theirs is supposed to be a more distasteful job. In fact, their task is handled efficiently and requires less wasted motion than the automatic blade.

After their necks are slit, one way or the other, the broilers go down a "bleed tunnel," losing most of their liquid in about fifty seconds. They are passed along next through scalding water, which loosens up the feathers. These come off through the offices of a bunch of revolving, vibrating rubber fingers. There are, alas, no more chicken pluckers. The assembly line then carries them over a flame, where the body hair is singed off. Next, the chickens' heads are sort of jerked off by one device, and their feet are chopped off by another. Then, on to eviscerating, for neck cutting, lung gutting, and inspection by the representatives of the United States Department of Agriculture. They check every bird, and Perdue makes a great to-do about how his own graders reject some chickens the U.S.D.A. passes as Grade A. As he explains in one of his prize-winning commercials: "Besides, if you're not completely satisfied with my chicken, you can always write me—the president of Perdue—and I'll give you your money back. If you buy some government-approved chicken, and you're not completely satisfied, who do you write? The President of the United States? What does he know about chickens?"

Actually, the chickens that do not pass Perdue Grade A muster are not discarded. Hardly any part of every bird is not salvaged in one way or another. The broilers that are somehow lacking the Perdue blessing are tagged with a different Perdue label or carved into various pieces and sold as "cutups." (Suggests a Perdue butcher-shop poster on that subject: "If your husband is a leg or breast man, ask for my chicken parts.") Finally, the chickens or the chicken parts are chilled, tagged, weighed, boxed, iced and put on the next truck out up Route 13. Within less than twenty-four hours they may be delivered, bought, cooked and eaten.

In the end, on the dining-room table, the four-pound feathered bird is down to about three pounds dressed. From conception to consumption, the journey has taken a little more than twelve weeks, though at no point did the chicken ever seem like anything living. It might just as well as have been gum wrappers or ball bearings. Of course, that it never really seems like a chicken is exactly why it can be done so economically and efficiently. "This is no country-club outfit," Perdue said one day. McCabe put that in a commercial too.

THE FISCAL RESPONSIBILITY OF THE CONGRESS

Mr. ABOUREZK. Mr. President, the Congress is being assaulted daily with the charge that it wants to spend the

country into bankruptcy. Every Member of this body knows that that charge is false. But the American people do not.

If we are to conduct a responsible debate over the priorities this administration is pursuing we must first dispatch the big spender bogeyman that the administration is using against us.

As one small piece of evidence that may be useful to Members in this battle I would like to insert into the CONGRESSIONAL RECORD at this point a brief study prepared for me by the General Accounting Office. This study shows that the Congress has reduced President Nixon's budget requests in every one of the past 4 years. It shows that our total reductions in his requests since 1969 amount to $20.9 billion. It shows, in short, that the President's spending claim against the Congress is patently false.

I ask unanimous consent that the Government Accounting Office document be printed in the RECORD.

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

U.S. GENERAL ACCOUNTING OFFICE,
Washington, D.C., February 15, 1973.
The Honorable JAMES ABOUREZK,
U.S. Senate.

DEAR MR. ABOUREZK: In your letter of February 2, 1973, you requested specific information regarding the budget requests of the President and the congressional appropriations during each of the past four years.

The following information is summarized from Table 3, page 18, of the Interim Report of February 7, 1973, which was prepared by the Joint Study Committee on Budget Control.

[Dollar amounts in millions]

Calendar year	Congress session	Budget estimates considered	Amounts enacted	Change
1972	92–2	$185, 429	$178, 958	—$6, 471
1971	92–1	167, 875	165, 226	—2, 649
1970	91–2	147, 765	144, 274	—3, 491
1969	91–1	142, 701	134, 431	—8, 270

The above dollar figures include regular annual, supplemental, and deficiency appropriation bills as considered and enacted by Congress in each of the last four years. These figures do not include the trust funds, interest on the public debt and other budget authority available under existing laws; which are not subject to appropriation process. We have enclosed a copy of the committee's report which provides additional detailed information on the budget estimates.

We hope this information meets your needs and we would provide any additional information upon request.

Sincerely yours,
D. L. SCANTLEBURY, *Director.*

CLOSE OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that morning business be closed.

The PRESIDING OFFICER. Without objection, morning business is closed.

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

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

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

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

ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move, in accordance with the previous order, that the Senate stand in adjournment until 10:30 a.m. tomorrow.

The motion was agreed to; and at 4:25 p.m. the Senate adjourned until tomorrow, Friday, April 6, 1973, at 10:30 a.m.

CONFIRMATION

Executive nomination confirmed by the Senate April 5 (legislative day of April 4), 1973:

FARM CREDIT ADMINISTRATION

Luther W. Jennejahn, of New York, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1979.

(The above nomination was approved subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

HOUSE OF REPRESENTATIVES—*Thursday, April 5, 1973*

The House met at 12 o'clock noon.

Rev. Floyd H. Gayles, St. James Baptist Church, Washington, D.C., offered the following prayer:

Our soul waiteth for the Lord: He is our help and our shield.—Psalms 33:20.

Eternal God, the substainer of life and the Father of all men, in Thy presence we pause in thanksgiving. Knowing that with Thee all our labor is worthwhile. We pray that our lives and the life of our Nation may be built upon the rock of eternal truth and invincible good will. So, Master, we dedicate ourselves anew to Thee, who are the way, the truth, and the life.

We thank Thee for our country, for our glorious heritage, for this challenging hour, and for the faith with which we meet the days that lie ahead. Ask Thou blessings upon our President, give him wisdom, as he leads our people through these troublesome times.

Bless these Representatives and help them to look to Thee who art the fountain of wisdom and the source of all good.

Bless our prisoners of war who are returning home. Strengthen them in every noble endeavor.

Lord, let peace rule in the hearts of all men. Accept our gratitude and make us worthy of Thy blessing: though Jesus Christ our Lord. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Without objection, the Journal stands approved.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Marks, one of his secretaries.

PERMISSION FOR COMMITTEE ON APPROPRIATIONS TO FILE PRIVILEGED REPORT ON LEGISLATIVE BRANCH APPROPRIATIONS, 1974

Mr. CASEY of Texas. Mr. Speaker, I ask unanimous consent that the Committee on Appropriations may have until midnight tonight to file a privileged report on the legislative branch appropriation bill for fiscal year 1974.

Mr. WYMAN reserved all points of order on the bill.

The SPEAKER. Is there objection to the request of the gentleman from Texas?

There was no objection.

PERMISSION FOR COMMITTEE ON GOVERNMENT OPERATIONS TO FILE A REPORT ON H.R. 3932, UNTIL MIDNIGHT, APRIL 6, 1973

Mr. FUQUA. Mr. Speaker, I ask unanimous consent that the Committee on Government Operations may have until midnight, Friday, April 6, 1973, to file a report on H.R. 3932.

The SPEAKER. Is there objection to the request of the gentleman from Florida?

There was no objection.

ANNOUNCEMENT OF HEARINGS ON THE EFFECTS OF PROPOSED BUDGETARY CUTBACKS FOR FISCAL YEAR 1974 IN THE COMMUNITY RELATIONS SERVICE

(Mr. EDWARDS of California asked and was given permission to address the House for 1 minute, to revise and extend his remarks and include extraneous matter.)

Mr. EDWARDS of California. Mr. Speaker, the Civil Rights Oversight Subcommittee of the House Committee on the Judiciary will continue its series of hearings on proposed cuts in the fiscal year 1974 budget of the Community Relations Service of the Department of Justice.

The hearings will commence on