with information vital to our understanding of defense postures. I would like to include in the RECORD at this point some facts and figures on the new carrier. This factual study was compiled by the Center for Defense Information, directed by Rear Adm. Gene La Rocque, retired:

CENTER FACT SHEET—NEW SOVIET CARRIER

	U.S. attack carrier Enterprise	U.S. amphibious assault carrier-Tarawa (LHA)	Soviet new carrier Kiev (CV)
Displacement	89,600 tons	39,300 tons	45,000 tons.
Length	1,123 ft	820 ft	900+ ft.
Flight deck	1,123 ft	820 ft	560+ ft. (estimate).
Aircraft	90 multiple purpose	48 helicopters V/STOL	36 V/STOL (estimate).
Speed	35 kn	24 kn	30 kn (estimate).
Crew	5,500	1,825	1200 (estimate).
Range	Unlimited	15,000 mi	15,000 mi (estimate).
Defensive weapons	24 surface-to-air launchers	16 surface-to-air launchers 3 5 in. guns.	6 surface-to-air launchers. 14 57 mm guns.

The United States has 14 attack aircraft carriers (CVA), 2 anti-submarine warfare carriers (CVS) and 7 amphibious landing aircraft carriers (LPH). The United States is building 2 large (90,000 tons) nuclear powered (CVAN) aircraft carriers (*Nimitz* and *Eisenhower*) and 5 amphibious assault landing aircraft carriers (LHA). The U.S. Navy is also requesting additional funds for a fourth nuclear powered aircraft carrier CVN-70 this year.

The British have 1 50,000 ton attack carrier and 3 helicopter assault aircraft carriers. The French have 2 32,000 ton attack carriers and 2 helicopter assault carriers.

Two Soviet helicopter cruisers (*Moscow* and *Leningrad*) (16,000 tons) are used for anti-submarine warfare duties.

Over a year ago the U.S. Navy announced that the USSR was constructing a large ship in Nikolayev on the Black Sea. Although first thought to be a tanker, ten days before the defense budget was presented to Congress in January 1973, the Navy released an artist's concept of the Soviet ship now identified as an aircraft carrier.

The new ship, the *Kiev*, will probably begin sea trials by the end of this year and be operational in 1975. Unlike western aircraft carriers, it has no catapults for launching heavy attack aircraft and will initially be restricted to Vertical Take Off and Landing (VTOL) or Short Take Off and Landing (STOL) aircraft. The *Kiev* and its aircraft will give elements of the Soviet Navy limited air-to-air defenses.

SENATE—*Friday, April 6, 1973*

The Senate met at 10:30 a.m. and was called to order by Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana.

PRAYER

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

Eternal God, our Father, since man cannot live by bread alone or find fulfillment solely in material things, help all who serve in the Government of this Nation to minister to the moral and spiritual needs of humanity. May we ever bear witness to the divine image walking and working with the dignity and grace of the Great Galilean. We beseech Thee, O Lord, to preserve this Nation as a beacon of light to all who aspire to freedom and justice.

Grant that we may ever live and move and have our being as a people whose trust is in Thee. 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 6, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. J. BENNETT JOHNSTON, JR., a Senator from the State of Louisiana, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

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

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Thursday, April 5, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

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

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

EXECUTIVE SESSION

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

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

DEPARTMENT OF TRANSPORTATION

The second assistant legislative clerk read the nomination of Robert Timothy Monagan, Jr., of California, to be an Assistant Secretary of Transportation.

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

DEPARTMENT OF COMMERCE

The second assistant legislative clerk proceeded to read nominations in the Department of Commerce.

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

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

INTERSTATE COMMERCE COMMISSION

The second assistant legislative clerk proceeded to read sundry nominations in the Interstate Commerce Commission.

Mr. MANSFIELD. Mr. President, I make the same request.

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

FARM CREDIT ADMINISTRATION

The second assistant legislative clerk read the nomination of Alfred Underdahl, of North Dakota, to be a member of the Federal Farm Credit Board, Farm Credit Administration.

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

DEPARTMENT OF LABOR

The second assistant legislative clerk proceeded to read nominations in the Department of Labor.

Mr. MANSFIELD. Mr. President, I ask that those two nominations be considered and confirmed en bloc.

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

ACTION

The second assistant legislative clerk read the nomination of Michael P. Balzano, Jr., of Virginia, to be Director of ACTION.

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

U.S. AIR FORCE

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Air Force.

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

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

U.S. ARMY

The second assistant legislative clerk read the nomination of Gen. Lewis Blaine Hershey to be general.

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

U.S. NAVY

The second assistant legislative clerk proceeded to read sundry nominations in the U.S. Navy.

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

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

NOMINATIONS PLACED ON THE SECRETARY'S DESK

The second assistant legislative clerk proceeded to read nominations placed on the Secretary's desk in the Army, in the Navy, and in the Marine Corps.

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

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

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.

THE CALENDAR

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar Nos. 95, 96, and 97.

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

NANCY S. PIGMAN

The resolution (S. Res. 93) to pay a gratuity to Nancy S. Pigman, was considered and agreed to, as follows:

S. RES. 93

Resolved, That the Secretary of the Senate hereby is authorized and directed to pay, from the contingent fund of the Senate, to Nancy S. Pigman, widow of Wendell H. Pigman, an employee of the Senate at the time of his death, a sum equal to one year's compensation at the rate he was receiving by law at the time of his death, said sum to be considered inclusive of funeral expenses and all other allowances.

SECURITIES INDUSTRY STUDY

The resolution (S. Res. 88) authorizing the printing of the report entitled "Securities Industry Study" as a Senate document, was considered and agreed to, as follows:

S. RES. 88

Resolved, That the report of the Subcommittee on Securities of the Committee on Banking, Housing and Urban Affairs entitled "Securities Industry Study" be printed as a Senate document, and that there be printed two thousand additional copies of such document for the use of that committee.

MEMORIAL TRIBUTES TO DECEASED FORMER MEMBERS OF THE SENATE

The resolution (S. Res. 92) relating to the printing of memorial tributes to deceased former Members of the Senate, was considered and agreed to, as follows:

S. RES. 92

Resolved, That when the Senate orders the printing as a Senate document of the legislative proceedings in the United States Congress relating to the death of a former United States Senator, such document shall be prepared, printed, bound, and distributed, except to the extent otherwise provided by the Joint Committee on Printing under chapter 1 of title 44, United States Code, in the same manner and under the same conditions as memorial addresses on behalf of Members of Congress dying in office are printed under sections 723 and 724 of such title.

VOTER REGISTRATION ACT

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate turn to the consideration of Calendar No. 92, S. 352; that it be laid before the Senate and made the pending business. I will say, before the Chair rules, that it will not be taken up until after morning business Tuesday next.

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

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

A bill (S. 352) to amend Title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service.

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

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on Post Office and Civil Service with amendments. On page 2, line 8, after the word "State", insert a comma and "the Commonwealth of Puerto Rico, the Virgin Islands, Guam,"; in line 12, after the words "Vice President", insert a comma and "an elector for President and Vice President,"; in line 15, after the word "any", insert "biennial or quadrennial primary or general"; in line 16, after the amendment just started, strike out "primary, special, general, or other"; in line 17, after the word "election", insert "and any special election"; on page 4, at the beginning of line 5, strike out "elections and, when requested by the States, for State"; in line 13, after the word "concerning", strike out "the" and insert "voter"; in the same line, after the words "registration-by-mail", strike out "program"; on page 5, line 1, after "(6)", insert "provide the Congress with such information as the Congress may from time to time request, and"; in line 11, after the word "who", strike out "is eligible to vote" and insert "fulfills the requirements to be a qualified voter"; in line 14, after the word "that", strike out "State." and insert "State, except that each State shall provide for the registration or other means of qualification of all residents of such States who apply, not later than thirty days immediately prior to any Federal election, for registration or qualification to vote in such election."; in line 24, after the word "assist", insert "State officials"; on page 6, line 7, after the word "registering", strike out "by mail to vote." and insert "to vote by mail."; in line 11, after the word "this", strike out "chapter" and insert "chapter, to provide for the return delivery of the completed registration form to the appropriate State official,"; in line 19, after the word "deliverable", insert "as addressed,"; on page 7, line 1 after the word "forms", strike out "shall" and insert "may"; in line 2, after the word "English", strike out "when a substantial number of the residents of a post office delivery area use another language"; in line 14, after the word "deliver", insert "a sufficient quantity of"; in line 15, after the word "to", strike out "each"; in the same line, after the word "postal", strike out "address" and insert "addresses and residences"; in line 16, after "United States", strike out "for the number of indivduals at that address who may be qualified electors"; in line 22, after the word "addresses", insert "and residences at least once every two years"; at the beginning of line 25, strike out "biennial general"; in the same line, after the word "each", strike out "political jurisdiction in any"; on page 8, line 20, after "(b)", insert "(1)"; on page 9, line 5, after the word "to", strike out "prevent" and insert "enjoin"; in the same line, after the word "fraudulent", strike out "registration." and insert "registration, and any other appropriate order."; after line 6, insert:

(2) The district court of the United States or the United States District Court of the District of Columbia shall have jurisdiction without regard to any amount in controversy, of proceedings instituted pursuant to this section.

On page 10, line 24, after the word "this", strike out "chapter." and insert "chapter. Such regulations may exclude a State from the provisions of this chapter if that State does not require a qualified applicant to register prior to the date of a Federal election."; so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Voter Registration Act".

SEC. 2. (a) Title 13, United States Code, is amended by adding at the end thereof the following new chapter:

"Chapter II—VOTER REGISTRATION ADMINISTRATION

"Sec.
"401. Definitions.
"402. Establishment.

"403. Duties and powers.
"404. Qualifications and procedure.
"405. Registration forms.
"406. Distribution of registration forms.
"407. Prevention of fraudulent registration.
"408. Penalties.
"409. Financial assistance.
"410. Regulations.

"§ 401. Definitions

"As used in this chapter—

"(1) 'Administration' means the Voter Registration Administration;

"(2) 'State' means each State of the United States, the political subdivisions of each State, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, and the District of Columbia;

"(3) 'Federal office' means the office of the President, the Vice President, an elector for President and Vice President, a Senator, a Representative, or the Delegate to the Congress;

"(4) 'Federal election' means any biennial or quadrennial primary or general election and any special election held for the purpose of nominating or electing candidates for any Federal office, including any election held for the purpose of expressing voter preference for the nomination of individuals for election to the office of President and any election held for the purpose of selecting delegates to a national political party nominating convention or to a caucus held for the purpose of selecting delegates to such a convention;

"(5) 'State election' means any election other than a Federal election; and

"(6) 'State official' means any individual who acts as an official or agent of a government of a State or political subdivision thereof to register qualified electors, or to conduct or supervise any Federal election in a State.

"§ 402. Establishment

"(a) There is established within the Bureau of the Census, Department of Commerce, the Voter Registration Administration.

"(b) The President shall appoint, by and with the advice and consent of the Senate, an Administrator and two Associate Administrators for terms of four years each, who may continue in office until a successor is qualified. An individual appointed to fill a vacancy shall serve the remainder of the term to which his predecessor was appointed. The Associate Administrators shall not be adherents of the same political party. The Administrator shall be the chief executive officer of the Administration.

"§ 403. Duties and Powers

"The Administration shall—

"(1) establish and administer a voter registration program in accordance with this chapter for all Federal elections;

"(2) collect, analyze, and arrange for the publication and sale by the Government Printing Office of information concerning elections in the United States (but this publication shall not disclose any information which permits the identification of individual voters);

"(3) provide assistance to State officials concerning voter registration-by-mail and election problems generally;

"(4) obtain facilities and supplies and appoint and fix the pay of officers and employees, as may be necessary to permit the Administration to carry out its duties and powers under this chapter, and such officers and employees shall be in the competitive service under title 5, United States Code;

"(5) appoint and fix the pay of officers and employees for temporary services as authorized under subchapter II of chapter 1 of this title for temporary employees of the Bureau of the Census;

"(6) provide the Congress with such information as the Congress may from time to time request, and prepare and submit to the President and the Congress a report on its activities, and on voter registration and elections generally in the United States, immediately following each biennial general Federal election; and

"(7) take such other action as it deems necessary and proper to carry out it duties and powers under this chapter.

"§ 404. Qualifications and Procedure

"(a) An individual who is eligible to vote fulfills the requirements to be a qualified voter under State law and who is registered to vote under the provisions of this chapter shall be entitled to vote in Federal elections in that State, except that each State shall provide for the registration or other means of qualification of all residents of such States who apply, not later than thirty days immediately prior to any Federal election, for registration or qualification to vote in such election.

"(b) Whenever a Federal election is held in any State, the Administration may, upon the request of any State official, furnish officers and employees and such other assistance as the Administration and the State official may agree upon to assist State officials in the registration of individuals applying to register in that State under the provisions of this chapter.

"§ 405. Registration Forms

"(a) The Administration shall prepare voter registration forms in accordance with the provisions of this section.

"(b) Printed registration forms shall be designed to provide a simple method of registering to vote by mail. Registration forms shall include matter as State law requires and as the Administration determines appropriate to ascertain the qualifications of an individual applying to register under the provisions of this chapter, to provide for the return delivery of the completed registration form to the appropriate State official, and to prevent fraudulent registration.

"(c) A registration notification form advising the applicant of the acceptance or rejection of his registration shall be completed and promptly mailed by the State official to the applicant. If any registration notification form is undeliverable as addressed, it shall not be forwarded to another address but shall be returned to the State official mailing the form. The possession of a registration notification form indicating that the individual is entitled to vote in an election shall be prima facie evidence that the individual is a qualified and registered elector entitled to vote in any such election but presentation of the form shall not be required to cast his ballot.

"(d) Registration forms may be prepared in a language other than English.

"§ 406. Distribution of Registration Forms

"(a) The Administration is authorized to enter into agreements wtih the Postal Service, with departments and agencies of the Federal Government, and with State officials for the distribution of registration forms in accordance with the provisions of this section.

"(b) Any agreement made between the Administration and the Postal Service shall provide for the preparation by the Administration of sufficient quantities of registration forms so that the Postal Service can deliver a sufficient quantity of registration forms to postal addresses and residences in the United States and for the preparation of an ample quantity of such forms for public distribution at any post office, postal substation, postal contract station, or on any rural or star route.

"(c) The Postal Service shall distribute the registration forms to postal addresses and residences at least once every two years not earlier than forty-five days or later than thirty days prior to the close of registration for the next Federal election in each State.

"(d) The Administration is authorized to enter into agreements with the Secretary of each Military Department of the Armed Forces of the United States for the distribution of registration forms at military installations.

"(e) This section shall not be construed to place any time limit upon the general availability of registration forms in post offices and appropriate Federal, State, and local government offices pursuant to agreements made under this section.

"§ 407. Prevention of Fraudulent Registration

"(a) In addition to taking any appropriate action under State law, whenever a State official has reason to believe that individuals who are not qualified electors are attempting to register to vote under the provisions of this chapter, he may notify the Administration and request its assistance to prevent fraudulent registration. The Administration shall give such reasonable and expeditious assistance as it deems appropriate in such cases, and shall issue a report on its findings.

"(b)(1) Whenever the Administration or a State official determines that there is a pattern of fraudulent registration, attempted fraudulent registration, or any activity on the part of any individuals or groups of individuals to register individuals to vote who are not qualified electors, the Administration or a State official may request the Attorney General to bring action under this section. The Attorney General is authorized to bring a civil action in any appropriate district court of the United States or the United States District Court for the District of Columbia to secure an order to enjoin fraudulent registration, and any other appropriate order.

"(2) The district court of the United States or the United States District Court of the District of Columbia shall have jurisdiction without regard to any amount in controversy, of proceedings instituted pursuant to this section.

"§ 408. Penalties

"(a) Whoever knowingly or willfully gives false information as to his name, address, residence, age, or other information for the purposes of establishing his eligibility to register or vote under this chapter, or conspires with another individual for the purpose of encouraging his false registration to vote or illegal voting, or pays or offers to pay or accepts or offers to accept payment either for registration to vote or for voting shall be fined not more than $10,000, or imprisoned not more than five years, or both.

"(b) Any person who deprives, or attempts to deprive, any other person of any right under this chapter shall be fined not more than $5,000, or imprisoned not more than five years, or both.

"(c) The provisions of section 1001 of title 18, United State Code, are applicable to the registration form prepared under section 405 of this chapter.

"§ 409. Financial Assistance

"(a) The Administration shall determine the fair and reasonable cost of processing registration forms prescribed under this chapter, and shall pay to each appropriate State an amount equal to such cost per card multiplied by the number of registration cards processed under this chapter in that State.

"(b) The Administration is authorized to pay any State which adopts the registration form and system prescribed by this chapter as a form and system of registration to be a qualified and registered elector for State elections in that State. Payments made to a State under this subsection may not exceed 30 per centum of the amount paid that State under subsection (a) of this section for the

most recent general Federal election in that State.

"(c) Payments under this section may be made in installments and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments.

"§ 410. Regulations

"The Administration is authorized to issue rules and regulations for the administration of this chapter. Such regulations may exclude a State from the provisions of this chapter if that State does not require a qualified applicant to register prior to the date of a Federal election."

(b) The table of chapters of title 13, United States Code, is amended by adding at the end thereof the following:

"11. Voter Registration Administration 401"

SEC. 3. (a) Section 3202(a) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (4);

(2) by striking out the period at the end of clause (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof;

"(6) mail relating to voter registration pursuant to sections 405 and 406 of title 13."

(b) Section 3206 of title 39, United States Code, is amended by adding the following new subsection:

"(d) The Voter Registration Administration shall transfer to the Postal Service as postal revenues out of any appropriations made to the Administration for that purpose the equivalent amount of postage, as determined by the Postal Service, for penalty mailings under clause (6) of section 3202(a) of this title."

(c) Section 404 of title 39, United States Code, is amended—

(1) by striking out "and" at the end of clause (8);

(2) by striking out the period at the end of clause (9) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(10) to enter into arrangements with the Voter Registration Administration, Bureau of the Census, for the collection, delivery, and return delivery of voter registration forms."

SEC. 4. Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"(132) Administrator and Associate Administrators (2), Voter Registration Administration, Bureau of the Census."

SEC. 5. There are authorized to be appropriated such sums as are necessary to carry out the provisions of this Act.

Mr. MANSFIELD. Mr. President, the bill will be the pending business.

The ACTING PRESIDENT pro tempore. Very well.

OGLALA SIOUX INDIANS AT WOUNDED KNEE, S. DAK.

Mr. MANSFIELD. Mr. President, I wish to take this means to commend the administration, especially the Department of Justice and the Department of the Interior, for being able to arrive at a tentative agreement with the Oglala Sioux Indians at Wounded Knee, on the Pine Ridge Reservation, S. Dak. I think the administration has shown the right kind of patience and has been able to avoid bloodshed and has been able to bring the matter to a head temporarily. For that, the administration deserves the thanks of the people.

It is my understanding that there will be a meeting in Washington tomorrow and that, depending on the outcome of the meeting, it will be determined whether the tentative agreement reached may perhaps become permanent. But I am glad that this incident has been kept within a small area. I hope that the legitimate requests of the Indians will be given consideration.

I would hope, further, that for the Indian Americans as a whole—the first Americans—a new day and a better era will dawn and that justice, which is their due, and has been long overdue, will be forthcoming.

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

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

AMENDMENT OF RURAL ELECTRIFICATION ACT OF 1936

Mr. McGOVERN. Mr. President, I ask the Chair to lay before the Senate a message from the House of Representatives on S. 394.

The ACTING PRESIDENT pro tempore laid before the Senate the amendments of the House of Representatives to 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, which were to strike out all after the enacting clause, and insert:

That it is hereby declared to be the policy of the Congress that adequate funds should be made available to rural electric and telephone systems through direct, insured and guaranteed loans at interest rates which will allow them to achieve the objectives of the Rural Electrification Act of 1936, as amended, and that such rural electric and telephone systems should be encouraged and assisted to develop their resources and ability to achieve the financial strength needed to enable them to satisfy their credit needs from their own financial organizations and other sources at reasonable rates and terms consistent with the loan applicant's ability to pay and achievement of the Act's objectives. The Rural Electrification Act of 1936, as amended (7 U.S.C. 901–950(b)), is therefore further amended as hereinafter provided.

SEC. 2. Title III of the Rural Electrification Act of 1936, as amended, is amended by striking out all of sections 301 and 302 and inserting in lieu thereof the following new sections:

"SEC. 301. RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND.—(a) There is hereby established in the Treasury of the United States a fund, to be known as the Rural Electrification and Telephone Revolving Fund (hereinafter referred to as the "fund"), consisting of:

"(1) all notes, bonds, obligations, liens, mortgages, and property delivered or assigned to the Administrator pursuant to loans heretofore or hereafter made under sections 4, 5, and 201 of this Act and under this title, as of the effective date of this title, as revised herein, and all proceeds from the sales hereunder of such notes, bonds, obligations, liens, mortgages, and property, which shall be transferred to and be assets of the fund;

"(2) undisbursed balances of electric and telephone loans made under sections 4, 5, and 201, which as of the effective date of this title, as revised herein, shall be transferred to and be assets of the fund;

"(3) notwithstanding section 3 (a) and (f) of title I, all collections of principal and interest received on and after July 1, 1972, on notes, bonds, judgments, or other obligations made or held under titles I and II of this Act and under this title, except for net collection proceeds previously appropriated for the purchase of class A stock in the Rural Telephone Bank, which shall be paid into and be assets of the fund;

"(4) all appropriations for interest subsidies and losses required under this title which may hereafter be made by the Congress;

"(5) moneys borrowed from the Secretary of the Treasury pursuant to section 304(a); and

"(6) shares of the capital stock of the Rural Telephone Bank purchased by the United States pursuant to section 406(a) of this Act and moneys received from said bank upon retirement of said shares of stock in accordance with the provisions of title IV of this Act, which said shares and moneys shall be assets of the fund.

"SEC. 302. LIABILITIES AND USES OF FUND.—(a) The notes of the Administrator to the Secretary of the Treasury to obtain funds for loans under sections 4, 5, and 201 of this Act, and all other liabilities against the appropriations or assets in the fund in connection with electrification and telephone loan operations shall be liabilities of the fund, and all other obligations against such appropriations or assets in the fund arising out of electrification and telephone loan operations shall be obligations of the fund.

"(b) The assets of the funds shall be available only for the following purposes:

"(1) loans which could be insured under this title, and for advances in connection with such loans and loans previously made, as of the effective date of this title, as revised herein, under sections 4, 5, and 201 of this Act;

"(2) payment of principal when due on outstanding loans to the Administrator from the Secretary of the Treasury for electrification and telephone purposes pursuant to section 3(a) of this Act and payment of principal and interest when due on loans to the Administrator from the Secretary of the Treasury pursuant to section 304(a) of this title;

"(3) payment of amounts to which the holder of notes is entitled on insured loans: *Provided*, That payments other than final payments need not be remitted to the holder until due or until the next agreed annual, semiannual, or quarterly remittance date;

"(4) payment to the holder of insured notes of any defaulted installment or, upon assignment of the note to the Administrator at his request, the entire balance due on the note;

"(5) purchase of notes in accordance with contracts of insurance entered into by the Administrator;

"(6) payment in compliance with contracts of guarantee;

"(7) payment of taxes, insurance, prior liens, expenses necessary to make fiscal adjustments in connection with the application, and transmittal of collections or necessary to obtain credit reports on applicants or borrowers, expenses for necessary services, including construction inspections, commer-

cial appraisals, loan servicing, consulting business advisory or other commercial and technical services, and other program services, and other expenses and advances authorized in section 7 of this Act in connection with insured loans. Such items may be paid in connection with guaranteed loans after or in connection with the acquisition of such loans or security thereof after default, to the extent determined to be necessary to protect the interest of the Government, or in connection with any other activity authorized in this Act;

"(8) payment of the purchase price and any costs and expenses incurred in connection with the purchase, acquisition, or operation of property pursuant to section 7 of this Act.

"SEC. 303. DEPOSIT OF FUND MONEYS.—Moneys in the fund shall remain on deposit in the Treasury of the United States until disbursed.

"SEC. 304. FINANCIAL TRANSACTIONS OF THE FUND.—(a) The Administrator is authorized to make and issue interim notes to the Secretary of the Treasury for the purpose of obtaining funds necessary for discharging obligations of the fund and for making loans, advances and authorized expenditures out of the fund. Such notes shall be in such form and denominations and have such maturities and be subject to such terms and conditions as may be agreed upon by the Administrator and the Secretary of the Treasury. Such notes shall bear interest at a rate fixed by the Secretary of the Treasury, taking into consideration the current average market yield of outstanding marketable obligations of the United States having maturities comparable to the notes issued by the Administrator under this section. The Secretary of the Treasury is authorized and directed to purchase any notes of the Administrator issued hereunder, and, for that purpose, the Secretary of the Treasury is authorized to use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as amended, and the purposes for which such securities may be issued under such Act, as amended, are extended to include the purchase of notes issued by the Administrator. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes shall be treated as public debt transactions of the United States: Provided, however, That such interim notes to the Secretary of the Treasury shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

"(b) The Secretary of the Treasury is authorized and directed to purchase for resale obligations insured through the fund when offered by the Administrator. Such resales shall be upon such terms and conditions as the Secretary of the Treasury shall determine. Purchases and resales by the Secretary of the Treasury hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

"(c) The Administrator may, on an insured basis or otherwise, sell and assign any notes in the fund or sell certificates of beneficial ownership therein to the Secretary of the Treasury or in the private market. Any sale by the Administrator for notes individually or in blocks shall be treated as a sale of assets for the purposes of the Budget and Accounting Act, 1921, notwithstanding the fact that the Administrator, under the agreement with the purchaser or purchasers, holds the debt instruments evidencing the loans and holds or reinvests payments thereon as trustee and custodian for the purchaser or purchasers of the individual note or of the certificate of beneficial ownership in a number of such notes. Security instruments taken by the Administrator in connection with any notes in the fund may constitute liens running to the United States notwithstanding the fact that such notes may be thereafter held by purchasers thereof.

"SEC. 305. INSURED LOANS; INTEREST RATES AND LENDING LEVELS.—(a) The Administrator is authorized and directed to make insured loans under this title and at the interest rates hereinafter provided to the full extent of the assets available in the fund, subject only to limitations as to amounts authorized for loans and advances as may be from time to time imposed by the Congress of the United States for loans to be made in any one year, which amounts shall remain available until expended: *Provided,* That any such loans and advances shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States.

"(b) Insured loans made under this title shall bear interest at either 2 per centum per annum (hereinafter called the 'special rate') or 5 per centum per annum (hereinafter called the 'standard rate'). Loans bearing the special rate shall be reserved for and made by the Administrator to the full extent of the authorities contained herein for any electric or telephone borrower which meets either of the following conditions:

"(1) has an average consumer or subscriber density of two or fewer per mile, or

"(2) has an average gross revenue per mile which is at least $450 below the average gross revenue per mile of REA-financed electric systems, in the case of electric borrowers, or at least $300 below the average gross revenue per mile of REA-financed telephone systems, in the case of telephone borrowers: *Provided, however,* That the Administrator may, in his sole discretion, make a loan at the special rate if he finds that the borrower:

"(A) has experienced extenuating circumstances or extreme hardship;

"(B) cannot, in accordance with generally accepted management and accounting principles, produce net income or margins before interest of at least equal to 150 per centum of its total interest requirements on all outstanding and proposed loans with an interest rate greater than 2 per centum per annum on the entire current loan, and still meet the objectives of the Act, or

"(C) cannot, in accordance with generally accepted management and accounting principles and without an excessive increase in the rates charged by such borrowers to their consumers or subscribers, provide service consistent with the objectives of the Act.

"(c) Loans made under this section shall be insured by the Administrator when purchased by a lender. As used in this Act, an insured loan is one which is made, held, and serviced by the Administrator, and sold and insured by the Administrator hereunder; such loans shall be sold and insured by the Administrator without undue delay.

"SEC. 306. GUARANTEED LOANS; ACCOMMODATION AND SUBORDINATION OF LIENS.—The Administrator may provide financial assistance to borrowers for purposes provided in the Rural Electrification Act of 1936, as amended, by guaranteeing loans, in the full amount thereof, made by the Rural Telephone Bank, National Rural Utilities Cooperative Finance Corporation, and any other legally organized lending agency, or by accommodating or subordinating liens or mortgages in the fund held by the Administrator as owner or as trustee or custodian for purchases of notes from the fund, or by any combination of such guarantee, accommodation, or subordination. No fees or charges shall be assessed for any such guarantee, accommodation, or subordination. Guaranteed loans shall bear interest at the rate agreed upon by the borrower and the lender. Guaranteed loans, and accommodation and subordination of liens or mortgages, may be made concurrently with a loan insured at the standard rate. The amount of guaranteed loans shall be subject only to such limitations as to amounts as may be authorized from time to time by the Congress of the United States: *Provided,* That any amounts guaranteed hereunder shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States. As used in this title a guaranteed loan is one which is made, held, and serviced by a legally organized lending agency and which is guaranteed by the Administrator hereunder.

"SEC. 307. OTHER FINANCING.—When it appears to the Administrator that the loan applicant is able to obtain a loan for part of his credit needs from a responsible cooperative or other credit source at reasonable rates and terms consistent with the loan applicant's ability to pay and the achievement of the Act's objectives, he may request the loan applicant to apply for and accept such a loan concurrently with a loan insured at the standard rate, subject, however, to full use being made by the Administrator of the funds made available hereunder for such insured loans under this title.

"SEC. 308. FULL FAITH AND CREDIT OF THE UNITED STATES.—Any contract of insurance or guarantee executed by the Administrator under this title shall be obligation supported by the full faith and credit of the United States and incontestable except for fraud or misrepresentation of which the holder has actual knowledge.

"SEC. 309. LOAN TERMS AND CONDITIONS.—Loans made from or insured through the fund shall be for the same purposes and on the same terms and conditions as are provided for loans in titles I and II of this Act except as otherwise provided in sections 303 to 308 inclusive.

"SEC. 310. REFINANCING OF RURAL DEVELOPMENT ACT LOANS.—At the request of the borrower, the Administrator is authorized and directed to refinance with loans which may be insured under this Act, any loans made for rural electric and telephone facilities under any provision of the Consolidated Farm and Rural Development Act."

SEC. 3. Section 3(f) of the Rural Electrification Act of 1936, as amended, is amended by striking "Except as otherwise provided in sections 301 and 406(a) of this Act," and by inserting ", *Provided, however,* That notwithstanding subsection (a) of this section, payments of such loans heretofore or hereafter made to the Administrator for use in making loans to borrowers under titles I and II shall not include any interest" immediately before the semicolon.

SEC. 4. Section 405 of the Rural Electrification Act of 1936, as amended, is further amended by striking subsection (e) in its entirety and by inserting in lieu thereof a new subsection (a), as follows:

"(e) Thereafter, the cooperative-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class; and the commercial-type entities and organizations holding class B and class C stock, voting as a separate class, shall elect three directors to represent their class by a majority vote of the stockholders voting in such class. Limited proxy voting may be permitted, as authorized by the by-laws of the telephone bank. Cumulative voting shall not be permitted."

SEC. 5. The second sentence of section 406 (a) of the Rural Electrification Act of 1936, as amended, is further amended by striking "from net collection proceeds in the

rural telephone account created under title III of this Act" immediately after the word "appropriated".

SEC. 6. Subsection (a) of section 407 of the Rural Electrification Act of 1936, as amended is amended by striking out "eight" in the second sentence and inserting in lieu thereof "twenty", and by striking out all of the third sentence.

SEC. 7. Section 407 of the Rural Electrification Act of 1936, as amended, is amended by adding a new subsection (c) as follows:

"(c) Purchases and resales by the Secretary of the Treasury as authorized in subsection (b) of this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States."

SEC. 8. Subsection (a) of section 408 of the Rural Electrification Act of 1936, as amended, is amended (a) by inserting the words "or which have been certified by the Administrator to be eligible for such a loan or loan commitment," immediately following the term "this Act," where it first appears; and (b) by adding at the end thereof the following sentence: "Loans and advances made under this section shall not be included in the totals of the budget of the United States Government and shall be exempt from any general limitation imposed by statute on expenditures and net lending (budget outlays) of the United States."

SEC. 9. Subsection (b) of section 408 of the Rural Electrification Act of 1936, as amended, is amended by striking out all of paragraph (3) and inserting in lieu thereof a new paragraph (3) reading:

"(3) Loans under this section shall bear interest at the 'cost of money rate.' The cost of money rate is defined as the average cost of moneys to the telephone bank as determined by the Governor, but not less than 5 per centum per annum."

SEC. 10. No funds provided under the Rural Electrification Act of 1936, as amended, shall be used outside the United States or any of its possessions.

SEC. 11. The right to repeal, alter, or amend this Act is expressly reserved.

SEC. 12. This Act shall take effect upon enactment.

And amend the title so as to read: "An Act to amend the Rural Electrification Act of 1936, as amended, to establish a Rural Electrification and Telephone Revolving Fund to provide adequate funds for rural electric and telephone systems through insured and guaranteed loans at interest rates which will allow them to achieve the objectives of the Act, and for other purposes."

The ACTING PRESIDENT pro tempore laid before the Senate a message from the House of Representatives announcing its insistence upon its amendments to 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 to be fully obligated in said year, and for other purposes, and requesting a conference with the Senate on the disagreeing votes of the two Houses thereon.

Mr. McGOVERN. I move that the Senate disagree to the amendments of the House, and agree to the request of the House for a conference on the disagreeing votes of the two Houses thereon, and that the Chair be authorized to appoint the conferees on the part of the Senate.

The motion was agreed to; and the Acting President pro tempore appointed Mr. McGOVERN, Mr. ALLEN, Mr. HUMPHREY, Mr. AIKEN, and Mr. DOLE conferees on the part of the Senate.

Mr. MANSFIELD. 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. ERVIN. 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.

TRANSACTION OF ROUTINE MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of routine morning business for not to exceed 1 hour with statements therein limited to 5 minutes.

ESTABLISHMENT OF SELECT COMMITTEF TO INVESTIGATE PRESIDENTIAL CAMPAIGN ACTIVITIES

Mr. ERVIN. Mr. President, I send to the desk a resolution amending Senate Resolution 60, which called for the establishment of a Senate Select Committee To Investigate the Presidential Campaign Activities and ask that it be stated.

The ACTING PRESIDENT pro tempore. The clerk will report the resolution.

The assistant legislative clerk read as follows:

S. RES. 95

Resolved, That Senate Resolution 60, 93d Congress be amended as follows:

"In section 3(a):

"'1. Renumber subsection (12) as subsection (13).

"'2. Insert the following between the ";" at the end of subsection (11) and renumbered subsection (13): "(12) to procure either through assignment by the Rules Committee or by renting such offices and other space as may be necessary to enable it and its staff to make and conduct the investigation and study authorized and directed by this resolution;'"

Mr. ERVIN. Mr. President, the Senate established a Select Committee on Presidential Campaign Activities and gave it a rather broad assignment of duties. It has developed since the committee was created that the Old Senate Office Building and the New Senate Office Building and other facilities available under the jurisdiction of the Committee on Rules and Administration are insufficient to afford the Select Commitee office space in which to carry on the activities entrusted to it by the Senate.

The purpose and the effect of the proposed amendment is to permit the Select Committee to rent quarters outside the jurisdiction of the Committee on Rules and Administration.

I have consulted the chairman of the Committee on Rules and Administration, the Senator from Nevada (Mr. CANNON), in respect to this matter. He has authorized me to state to the Senate that he has no objection to the adoption of this amendment provided I state on the floor in his behalf that the adoption of the amendment permitting the renting of quarters outside the jurisdiction of the Committee on Rules and Administration is not a precedent for future action.

The Senator from Nevada recognizes that there are not sufficient quarters available under the jurisdiction of his committee. I am advised that the distinguished acting minority leader, the Senator from Vermont (Mr. STAFFORD), has consulted with the ranking Republican member, or vice chairman of the select committee, with respect to the proposed amendment, and the vice chairman of the select committee has said that he is not opposed to the amendment.

Mr. STAFFORD. The Senator is correct. That is the situation.

The ACTING PRESIDENT pro tempore. Without objection, Senate Resolution 95 is agreed to.

ORDER OF BUSINESS

The ACTING PRESIDENT pro tempore. The Senator from West Virginia is recognized.

(The remarks Senator ROBERT C. BYRD made on the introduction of S. 1500, to establish the Federal Bureau of Investigation as an independent agency of the executive branch of the Government, are printed in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

PETITIONS

Petitions were laid before the Senate and referred as indicated:

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

A resolution of the Senate of the State of Hawaii. Referred to the Committee on Labor and Public Welfare:

"S. RES. 5

"Senate resolution requesting the U.S. Congress, and specifically the Department of Health, Education, and Welfare, to increase Federal grants to Hawaii for public assistance payments

"Whereas, during the past ten years, the following public welfare trends have transpired in Hawaii:

"(1) *Increase in public assistance payments*—the total monetary and medical payments for needy recipients have risen dramatically from $9.7 million in 1961–62 to $60.6 million in 1970–71, an increase of $50 million or 552 per cent;

"(2) *Increase in number of cases*—the average monthly number of cases or families served has moved upward from 6,559 in 1961–62 to 20,540 in 1970–71, an increase of 13,941 cases or 211 per cent; and

"(3) *Increase in number of recipients*—the average monthly number of individual recipients assisted has sharply upturned from 16,217 in 1961–62 to 49,393 in 1970–71, an increase of 33,176 recipients or 204 per cent; and

"Whereas, the alarming rate of growth in expenditures, cases, and recipients becomes even more disturbing when consideration is given to the fact that the 56 per cent Federal participation in public assistance payments during 1961–62 decreased to 40.9 per cent in 1970–71; and

"Whereas, while the present welfare crisis is not just a Hawaii phenomenon, but a

source of grave concern in many cities and States across the Nation, the public asssitance statistics published by the Department of Health, Education, and Welfare for July 1972, emphasize the severity of the problem in the State by ranking Hawaii as the ninth State in the Nation with the largest number of recipients per thousand people; and

"Whereas, it should also be noted that at the present time, Hawaii has approximately eighty recipients per thousand people which is substantially higher than the national average of seventy recipients per thousand people; and

"Whereas, although the distribution of federal funds for public assistance payments to the states is computed on a formula basis, it should be pointed out that this formula does not take into account the per capita income level of or the cost of living in each state; and

"Whereas, Hawaii is at a distinct disadvantage under the present method of distributing federal funds when review is given due to the following factors existing in the State:

"(1) *Rise in unemployment*—since FY 1967–68, the unemployment rate in Hawaii has doubled as of late 1971;

"(2) *Rise in population*—over the past ten years from 1961 to 1971, the population of Hawaii has increased by 22 per cent;

"(3) *Rise in cost of living*—over the past ten years from 1961 to 1971, the cost of living in Hawaii has increased by 35 per cent;

"(4) *Rise in the number of new programs*—food stamps and medicaid are new programs that have increased the number of people eligible for assistance; and

"(5) *Rise in the cost of medical vendor payments*; now, therefore,

"Be it resolved by the Senate of the Seventh Legislature of the State of Hawaii, Regular Session of 1973, that the United States Congress, and specifically the Department of Health, Education, and Welfare, be requested to increase federal grants to Hawaii for public assistance payments in order to help the State curtail some of its spiralling assistance costs; and

"Be it further resolved that certified copies of this Resolution be transmitted to the President Pro Tempore of the Senate and the Speaker of the House of Representatives of the United States Congress, each member of the Hawaii Congressional Delegation, and the Secretary of Health, Education, and Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

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

S. 893. A bill to authorize appropriations for certain highway safety projects, to extend and improve the Federal highway safety program, and for other purposes (Rept. No. 93–106).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. ROBERT C. BYRD (for Mr. MAGNUSON), from the Committee on Commerce:

Betsy Anker-Johnson, of Washington, to be an Assistant Secretary of Commerce.

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

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first time and, by unanimous consent, the second time, and referred as indicated:

By Mr. RIBICOFF:

S. 1499. A bill for the relief of Kathleen A. Levy. Referred to the Committee on the Judiciary.

By Mr. ROBERT C. BYRD (on behalf of himself, Mr. MANSFIELD, and Mr. BENTSEN):

S. 1500. A bill to establish the Federal Bureau of Investigation as an independent agency of the executive branch of the Government. Referred to the Committee on the Judiciary.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1501. A bill to amend the Water Resources Planning Act to provide for continuing authorization for appropriations. Referred to the Committee on Interior and Insular Affairs.

By Mr. JACKSON:

S. 1502. A bill to promote, preserve, protect, and guarantee the independent professionalism of the Federal Bureau of Investigation by making organizational changes in the Office of Director; by requiring that the Office of Director be filled only by qualified persons having professional law enforcement experience; by establishing a 15-year term for the Office of Director; by setting forth conditions for removal of the Director from office; by limiting the term of any person nominated and confirmed as Director before the passage of this act; and by requiring the Director to submit an annual report to Congress to be referred to the Government Operations Committees of the House and Senate for consideration and appropriate legislative recommendations. Referred to the Committee on the Judiciary.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. ROBERT C. BYRD (on behalf of himself, Mr. MANSFIELD, and Mr. BENTSEN):

S. 1500. A bill to establish the Federal Bureau of Investiation as an independent agency of the executive branch of the Government. Referred to the Committee on the Judiciary.

Mr. ROBERT C. BYRD. Mr. President, the distinguished majority leader and I are today introducing a bill, cosponsored by the distinguished Senator from Texas (Mr. BENTSEN) and other Senators, to establish the Federal Bureau of Investigation as an independent agency of the executive branch.

The Director and Deputy Director would be appointed by the President, by and with the advice and consent of the Senate, and their terms would run 7 years.

Mr. President, the term of 7 years is not necessarily a magic figure, but at least it is a starting point for consideration in committee. Instead, the committee may decide that it should be a term of 9 years or 11 years or 12 or 15 years.

That would be left to the collective judgment of the committee which would have jurisdiction over this legislation; but the bill as it is written provides for a term of 7 years. The Director and Deputy Director could be renominated and would then come again before the Senate for confirmation.

Here again, Mr. President, it might be that the Senate, in its collective judgment, would want to provide for a longer tenure of office without possibility of reappointment and reconfirmation. I do not pretend to have all the answers to all the questions. But this bill at least would allow the Director and the Deputy Director to be renominated.

As I say, I have mixed feelings on this matter. I sometimes think it would be better to have a term of, say, 12 or 15 years, without the possibility of reappointment, but I leave that to the committee and to the Senate.

Reconfirmation every 7 years would assure the Congress of additional protection against politicization of the Bureau. The Deputy Director would assume the position of Acting Director in the event of a vacancy in the office of the Director, This would insure that the Bureau would have a professional leader until the Senate had the opportunity to confirm the nominee to be Director.

This bill would grant all functions now carried out by the Federal Bureau of Investigation, Department of Justice, to the Independent Federal Bureau of Investigation.

In this area, it might very well be that a committee, perhaps the Judiciary Committee, would wish to determine through extensive hearings what the future role of the FBI ought to be. I am not positive that the FBI should continue in its role both as the top law enforcement agency and as the agency responsible for guarding the internal security interests of the country. I am not sure about that. It may well be that its role should or should not continue in both those vast areas of responsibility.

The time has come when a committee of the Senate and the Senate ought to make this determination. The key issue really has not been, nor is it now, the selection of a Director of the FBI. The key issue here to be decided at this critical juncture—following the death of J. Edgar Hoover and prior to, or certainly shortly after, the appointment of a new Director—ought to be a determination of just what the role of the FBI will be in the future, the purpose being to maintain a check on the powers of that agency, assist the agency in determining the direction in which it should move, and to assure that the agency will never become the political arm of any administration, regardless of what party may be in power at a given time in the White House.

Here we have an agency that has such potential for good in carrying out its functions of protecting the American public against organized crime, but which, at the same time, presents such a potential for danger to the constitutional liberties of all Americans, that I feel that now is the time for Congress to make a determination of what the FBI's true role should be, what its functions ought to be, and how those functions should be implemented.

At bottom, this bill would provide that the functions which the FBI now has to carry out would be continued under the FBI, but as an independent agency, including assistance in the protection of the President. The FBI assists now,

though of course the primary responsibility at the present time rests with the Secret Service; but the FBI does assist. Whether or not this should be continued I am not prepared to say, but the bill, as a starting point, would continue such functions, and continue such other investigations pertaining to such matters under the Department of Justice and the Department of State, as the President may direct.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. MANSFIELD. Mr. President, I yield my 3 minutes to the Senator from West Virginia.

Mr. ROBERT C. BYRD. This legislation would free the Federal Bureau of Investigation from being responsible directly to the Justice Department. Past experience—and I think that this was evident during the course of the hearings on the nomination of Mr. Pat Gray—has shown that very clearly the Attorney General is in fact a politically responsive Cabinet officer. I do not say this as a reflection on the present Attorney General Mr. Kleindienst. I am not talking in terms of personalities. Past experience shows that any Attorney General under either of the two great political parties is a politically oriented animal, and is politically responsive in his activities.

For the Director of the largest investigation and law enforcement agency in the world to remain responsible to a politically oriented Cabinet officer is to leave wide open the door for the Federal Bureau of Investigation to become an investigative and enforcement arm of a politically motivated Attorney General. No matter which party is in power, such a potentially dangerous situation ought not to be allowed to remain available as a temptation to be used to control the political processes of the country.

While there remains a serious need for extended hearings as to the future role of the Federal Bureau of Investigation—and the need remains for a permanent congressional oversight committee or subcommittee with jurisdiction over the Bureau—the legislation which is being introduced today would be a first step toward a truly nonpolitical Federal Bureau of Investigation.

Just the other day, Mr. President, I stated on the floor of the Senate that I thought it wise for a committee or subcommittee to be established whose sole responsibility would be oversight over the functions and activities of the Federal Bureau of Investigation. I am not prepared to state what the solution would be in that regard. Perhaps it should be a subcommittee of the Committee on the Judiciary. It could be a joint committee between the two Houses. It could be a special committee or a select committee. It could even be a committee made up of the chairmen and ranking members of the Judiciary Committee, the Government Operations Committee, and the Appropriations Committee.

The CIA's budget, for example, is always heard in closed session by the Special Subcommittee on Intelligence Operations of the Appropriations Committee. This is composed of five members—the three top Democrats and the two top Republicans. The subcommittee also has three ex officio members assigned to it by the Armed Services Committee. That subcommittee has been created by practice, and not by statute.

Action is needed now which will insure to all Americans that their constitutional liberties will not be infringed upon by an agency intended to be their protector and which, at the same time, will be an effective organization in protecting the American public against organized crime.

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. 1500

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Federal Bureau of Investigation Improvement Act".

ESTABLISHMENT

SEC. 2. (a) There is established as an independent establishment of the executive branch of the United States Government, the Federal Bureau of Investigation (referred to in this Act as the "Bureau").

(b) The Bureau shall be headed by a Director who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of seven years. There shall be in the Bureau a Deputy Director who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of seven years. The Deputy Director shall perform such functions as the Director may prescribe and shall be the acting Director during the absence or disability of the Director or in the event of a vacancy in the position of Director. Upon the expiration of his term, the Director shall continue to serve until his successor has been appointed and has qualified, except that the Director may not serve under the authority of this sentence for a period longer than one year after the expiration of that term.

(c) The President, by and with the advice and consent of the Senate, is authorized to appoint within the Bureau not to exceed eleven Assistant Directors.

FUNCTIONS

SEC. 3. There are transferred to the Bureau and the Bureau shall perform all functions carried out by the Federal Bureau of Investigation, Department of Justice.

(b) There are transferred to the Bureau, and the Bureau shall perform, all functions of the Attorney General, with respect to, and being administered through, the Federal Bureau of Investigation, Department of Justice.

(c) The Bureau is authorized to—

(1) detect and prosecute crimes against the United States;

(2) assist in the protection of the President; and

(3) upon the request of the President, conduct such other investigations regarding official matters under the control of the Department of Justice and the Department of State as he may direct.

This subsection does not limit the authority of departments and agencies to investigate crimes against the United States when investigative jurisdiction has been assigned by law to such departments and agencies.

(d) The Director shall—

(1) acquire, collect, classify, and preserve identification, criminal identification, crime, and other records; and

(2) exchange these records with, and for the official use of authorized officials of the Federal Government, the States, cities, and penal and other institutions.

The exchange of records authorized by clause (2) of this subsection is subject to cancellation if dissemination is made outside the receiving departments or related agencies.

(c) (1) The Director and the Bureau may investigate any violation of title 18, United States Code, involving Government officers and employees—

(A) notwithstanding any other provision of law; and

(B) without limiting the authority to investigate any matter which is conferred on them or on a department or agency of the Government.

(2) Any information, allegation, or complaint received in a department or agency of the executive branch of the Government relating to violations of such title 18 involving Government officers and employees shall be expeditiously reported to the Director by the head of the department or agency, unless—

(A) the responsibility to perform an investigation with respect thereto is specifically assigned otherwise by any other provision of law; or

(B) as to any department or agency of the Government, the Director directs otherwise with respect to a specified class of information, allegation, or complaint.

(3) This section does not limit—

(A) the authority of the military departments to investigate persons or offenses over which the armed forces have jurisdiction under chapter 47 of title 10, United States Code (the Uniform Code of Military Justice); or

(B) the primary authority of the United States Postal Service to investigate postal offenses.

PERSONNEL OF THE BUREAU

SEC. 4. (a) The Director may appoint such personnel as may be necessary to carry out the provisions of this Act without regard to the provisions of title 5, United States Code, governing appointments in the competitive service.

(b) (1) Section 5313 of title 5, United States Code, relating to level II of the Executive Schedule, is amended by adding at the end thereof the following new paragraph:

"(22) Director, Federal Bureau of Investigation."

(2) Section 5314 of such title, relating to level III of the Executive Schedule, is amended by adding at the end thereof the following new paragraph:

"(60) Deputy Director, Federal Bureau of Investigation."

(3) Section 5315 of such title, relating to level IV of the Executive Schedule, is amended by adding at the end thereof the following new paragraph:

"(98) Assistant Director, Federal Bureau of Investigation (11)."

(c) The Director is authorized to fix the compensation of the personnel of the Bureau and to prescribe their functions and duties.

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

TRANSFERS

SEC. 5. (a) All personnel, assets, liabilities, contracts, property, and records as are determined by the Director of the Office of Management and Budget to be employed, held, or used primarily in connection with any function transferred under the provisions of section 3, are transferred to the Bureau.

(b) All personnel transferred by this Act shall remain in the excepted service.

ADMINISTRATIVE PROVISIONS

SEC. 6. (a) The Director may, in addition to the authority to delegate and redelegate contained in any other Act in the exercise of the functions transferred to the Bureau by this Act, delegate any of his functions to such officers and employees of the Bureau as the Director may designate, and may au-

thorize such successive redelegations of such functions as he may deem desirable.

(b) In order to carry out the provisions of this Act, the Bureau is authorized—

(1) to adopt, alter, and use a seal;

(2) to adopt, amend, and repeal rules and regulations governing the manner of its operations, organization, and personnel, and the performance of the powers and duties granted to or imposed upon it by law;

(3) to accept gifts or donations of services, money, or property, real, personal, or mixed, tangible, or intangible;

(4) to enter into contracts or other arrangements or modifications thereof, with any agency or department of the United States, or with any State or political subdivision thereof, or with any person, firm, association, or corporation, and such contracts or other arrangements, or modifications thereof, may be entered into without legal consideration, without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5);

(5) to make advance, progress, and other payments which the Director deems necessary under this Act without regard to the provisions of section 3648 of the Revised Statutes (31 U.S.C. 529);

(6) to utilize, with their consent, the services, equipment, personnel, and facilities of any other department or agency of the United States, with or without reimbursement;

(7) to accept and utilize the services of voluntary and uncompensated personnel and reimburse them for travel expenses including per diem, as authorized by section 5703 of title 5, United States Code;

(8) to make other necessary expenditures; and

(9) to take such other action as may be necessary to carry out the provisions of this Act.

(c) Upon request made by the Director each Federal department and agency is authorized and directed to make its services, equipment, personnel, facilities, and information (including suggestions, estimates, and statistics) available to the greatest practicable extent consistent with the laws to the Bureau in the performance of its functions.

EXPENSES OF UNFORESEEN EMERGENCIES OF A CONFIDENTIAL CHARACTER

SEC. 7. Appropriations for the Bureau are available for expenses of unforeseen emergencies of a confidential character, when so specified in the appropriation concerned, to be spent under the direction of the Director. The Director shall certify the amount spent that he considers advisable not to specify, and his certification is a sufficient voucher for the amount therein expressed to have been spent.

ANNUAL REPORT

SEC. 8. The Director shall, as soon as practicable after the end of each fiscal year, make a report in writing to the President for submission to the Congress on the activities of the Bureau during the preceding fiscal year.

SAVINGS PROVISIONS

SEC. 9. (a) All orders, determinations, rules, regulations, permits, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective in the exercise of functions which are transferred under this Act, by (A) any department or agency, any functions of which are transferred by this Act, or (B) any court of competent jurisdiction; and

(2) which are in effect at the time this Act takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or repealed by the Director, by any court of competent jurisdiction, or by operation of law.

(b) The provisions of this Act shall not affect any proceedings pending at the time this section takes effect before any department or agency, or part thereof, functions of which are transferred by this Act, except that such proceedings, to the extent that they relate to functions so transferred, shall be continued before the Bureau. Such proceedings, to the extent they do not relate to functions so transferred, shall be continued before the department or agency, or part thereof, before which they were pending at the time of such transfer. In either case orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or repealed by the Bureau, by a court of competent jurisdiction, or by operation of law.

(c)(1) Except as provided in paragraph (2)—

(A) the provisions of this Act shall not affect suits commenced prior to the date this section takes effect; and

(B) in all such suits proceedings shall be had, appeals taken, and judgments rendered, in the same manner and effect as if this Act had not been enacted.

No suit, action, or other proceeding commenced by or against any officer in his official capacity as an officer of any department or agency, or part thereof, functions of which are transferred by this Act, shall abate by reason of the enactment of this Act. No cause of action by or against any department or agency, or part thereof, functions of which are transferred by this Act, or by or against any officer thereof in his official capacity shall abate by reason of the enactment of this Act. Causes of actions, suits, or other proceedings may be asserted by or against the United States or such official of the Bureau as may be appropriate and, in any litigation pending when this section takes effect, the court may at any time, on its own motion or that of any party, enter an order which will give effect to the provisions of this subsection.

(2) if before the date on which this Act takes effect, any department or agency, or officer thereof in his official capacity, is a party to a suit, and under this Act—

(A) such department or agency, or any part thereof, is transferred to the Bureau; or

(B) any function of such department or agency, or part thereof, or officer is transferred to the Bureau,

then such suit shall be continued by the Bureau.

(d) With respect to any function transferred by this Act and exercised after the effective date of this Act, reference in any other Federal law to any department or agency, or part thereof, or officer so transferred or functions of which are so transferred shall be deemed to mean the Bureau or the officer in which such function is vested pursuant to this Act.

(e) This Act shall not have the effect of releasing or extinguishing any criminal prosecution, penalty, forfeiture, or liability incurred as a result of any function transferred under this Act.

(f) Orders and actions of the Bureau in the exercise of functions transferred under this Act shall be subject to judicial review to the same extent and in the same manner as if such orders and actions had been by the department or agency, or part thereof, exercising such functions, immediately preceding their transfer. Any statutory requirements relating to notice, hearings, action upon the record, or administrative review that apply to any function transferred by this Act shall apply to the exercise of such function by the Bureau.

(g) In the exercise of the functions transferred under this Act, the Bureau shall have the same authority as that vested in the department or agency, or part thereof, exercising such functions immediately preceding their transfer, and actions of the Bureau in exercising such functions shall have the same force and effect as when exercised by such department or agency.

REPEALER

SEC. 10. (a)(1) Chapter 33 of title 28 United States Code, is repealed.

(2) The table of chapters of part II of such title is amended by striking out

"33. Federal Bureau of Investigation.. 531".

(b) Title VI of the Omnibus Crime Control and Safe Streets Act of 1968 is repealed.

EFFECTIVE DATE: INITIAL APPOINTMENT OF OFFICERS

SEC. 11. (a) This Act, and amendments made by this Act, other than this section, shall take effect 90 days after the enactment of this Act, or on such prior date after enactment of this Act as the President shall prescribe and publish in the Federal Register.

(b) Notwithstanding subsection (a) of this section, any of the officers provided for in section 2 of this Act may be appointed in the manner provided for in this Act, at any time after the date of enactment of this Act. Such officers shall be compensated from the date they first take office, at the appropriate rates provided for in this Act or amendments made by this Act. Such compensation and related expenses of such officers shall be paid from funds available for the functions to be transferred to the Bureau under this Act.

By Mr. JACKSON (for himself and Mr. FANNIN) (by request):

S. 1501. A bill to amend the Water Resources Planning Act to provide for continuing authorization for appropriations. Referred to the Committee on Interior and Insular Affairs.

Mr. JACKSON. Mr. President, by request, I send to the desk on behalf of myself and the Senator from Arizona (Mr. FANNIN) a bill to amend the Water Resources Planning Act to provide for continuing authorization for appropriations.

Mr. President, this draft legislation was submitted and recommended by the U.S. Water Resources Council, and I ask unanimous consent that the executive communication accompanying the proposal be printed in the RECORD at this point in my remarks.

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

U.S. WATER RESOURCES COUNCIL,
Washington, D.C., March 14, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: Enclosed is a draft bill "to amend the Water Resources Planning Act to provide for continuing authorization for appropriations."

An amendment to Section 401 of the Water Resources Planning Act is necessary to provide for authorization of appropriations requested in the Council's Fiscal Year 1974 budget submission. The language of the most recent amendment (P.L. 92-396, August 20, 1972) limits authorization of appropriations for preparation of assessments and for directing and coordinating the preparation of regional or river basin plans to $3,500,000 for 1973 only, with subsequent authorizations to be established "by subsequent acts."

This proposed amendment would delete the limiting language, providing for the continuation of the authority granted by the previous amendment. No change is proposed in the present ceilings for any of the Act's separate categories.

The Office of Management and Budget advises that the enactment of this bill would be consistent with the Administration's objectives.

Sincerely yours,

ROGERS C. B. MORTON,
Chairman.

By Mr. JACKSON:

S. 1502. A bill to promote, preserve, protect, and guarantee the independent professionalism of the Federal Bureau of Investigation by making organizational changes in the Office of Director; by requiring that the Office of Director be filled only by qualified persons having professional law enforcement experience; by establishing a 15-year term for the Office of Director; by setting forth conditions for removal of the Director from office; by limiting the term of any person nominated and confirmed as Director before the passage of this act; and by requiring the Director to submit an annual report to Congress to be referred to the Government Operations Committees of the House and Senate for consideration and appropriate legislative recommendations. Referred to the Committee on the Judiciary.

Mr. JACKSON. Mr. President, I rise to introduce legislation entitled "The FBI Reorganization and Reform Act of 1973." The purpose of this legislation is to reestablish the independence of the Federal Bureau of Investigation and to free the Director of the Bureau from political pressures and influence. This legislation will have three principal features.

First, my bill will establish standards of professional qualification for the office of FBI Director, including extensive professional experience in the field of law enforcement and at least 10 years of experience in a responsible position within the FBI itself.

Second, this measure will provide for a fixed term of 15 years for the Director of the Federal Bureau of Investigation without the possibility of reappointment after the expiration of his term.

And third, this bill will provide that the Director may only be removed from office for good and sufficient causes related to the ability of the Director to properly perform the duties and responsibilities of his office.

Mr. President, I believe that the need for the measure I am introducing is obvious. The Office of Director of the FBI is a uniquely sensitive one and it must be insulated from the political pressures which have surrounded the Office since the death of J. Edgar Hoover. It is at the heart of our democratic tradition of government that the enforcement of the criminal law be performed with a scrupulous adherence to the principle of equality. There can be no special favors when it comes to justice; it must be equally applied to all if it is to mean anything at all.

Mr. President, I believe that we are at a historic crossroad. Behind us we have a tradition of 50 years in which the FBI has been the preeminent law enforcement agency in the world; the Bureau has been an efficient and incorruptible agency. Many who formerly critized Mr. Hoover now understand the contribution he made and fondly look back to the days when the Bureau served the Nation with distinction. The same cannot be said since the death of Mr. Hoover. It is simply essential that the Congress act to reestablish the independent professionalism of the FBI before the tradition is lost.

The Director of the FBI should be insulated from Presidential pressure in the same way that the Comptroller General of the Government Accounting Office is. While there are legal distinctions between the status of the GAO and the FBI, there is a common ground. GAO is a kind of financial FBI, and the same need for freedom from improper political pressure and influence is crucial to the ability of each agency to perform its delegated duties.

By establishing professional standards and qualification, by providing for a fixed term without possibility of reappointment, and by providing that the Director may only be removed for good cause, I believe that it is possible to insulate the Director from the kind of undesirable political pressures which have made this legislation necessary.

Mr. President, I believe that the time is right for the Congress to act decisively to protect and preserve the integrity of law enforcement at the national level. It is my hope that the Senate will give prompt attention to the measure I am proposing.

I ask unanimous consent to have the text of the bill printed in the RECORD.

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

S. 1502

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 FBI Reorganization and Reform Act of 1973."

SEC. 2. The Congress declares that it is a matter of utmost national importance that the Federal Bureau of Investigation perform its appointed law enforcement functions in a manner characterized by the highest degree of independent professionalism. The Congress further declares that it is a matter of utmost national importance that the Federal Bureau of Investigation perform its functions free from any influence, political or otherwise, that would tend to impair, impede, or compromise the independent professionalism of the Federal Bureau of Investigation. Further, it is the express policy and intent of the Congress that the President of the United States in appointing an individual to be Director of the Federal Bureau of Investigation shall observe the purposes and provisions of this Act.

SEC. 3. The Director of the Federal Bureau of Investigation shall be appointed by the President of the United States by and with the advice and consent of the Senate. The President of the United States shall make a nomination for Director of the Federal Bureau of Investigation within sixty days after a vacancy occurs in that office. The President of the United States shall also have the power to name an interim Director of the Federal Bureau of Investigation who shall serve until the permanent Director of the Federal Bureau of Investigation is confirmed by the Senate.

SEC. 4. No person shall be qualified or eligible to be appointed by the President of the United States to serve as interim Director of the Federal Bureau of Investigation, or nominated by the President of the United States to be Director of the Federal Bureau of Investigation unless that person has at least fifteen years experience in the field of law enforcement, of which at least the last ten years of this experience shall have been in a responsible position in the Federal Bureau of Investigation.

SEC. 5. The Director of the Federal Bureau of Investigation shall hold office for a term beginning upon his confirmation by the Senate and expiring fifteen years after the date upon which he was confirmed. A person holding the Office of Director of the Federal Bureau of Investigation shall not be eligible for reappointment after the expiration of his term, nor shall a Director of the Federal Bureau of Investigation be eligible for reappointment if his tenure in office expired by resignation, or by removal for cause, as hereinafter provided by this Act.

SEC. 6. The Director of the Federal Bureau of Investigation may be removed from office for only the following reasons:

(1) permanent incapacity,
(2) neglect of duty,
(3) malfeasance in office,
(4) any felony or conduct involving moral turpitude.

SEC. 7. Upon attaining seventy years of age, the Director of the Federal Bureau of Investigation shall be retired.

SEC. 8. The term of office of any person nominated and confirmed by the Senate to be Director of the Federal Bureau of Investigation prior to the enactment of this Act shall not extend beyond January 1, 1974. Nothing in this Act shall be interpreted to prevent the renomination of the person who is the incumbent Director of the Federal Bureau of Investigation on the date of enactment of this Act, if he meets the criterion of eligibility established by this Act.

SEC. 9. The Director of the Federal Bureau of Investigation shall prepare and transmit on January 1 of every year an annual report to Congress. The report shall be referred to the Committees on Government Operations of the House and Senate for review, and for the submission of such recommendations to the House and Senate as the Committees deem necessary and desirable.

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

Mr. JACKSON. I am happy to yield.

Mr. ROBERT C. BYRD. Mr. President, I compliment my distinguished colleague and friend from the State of Washington on his having introduced this legislation.

I, as a member of the Judiciary Committee, having sat through the hearings on the nomination of Mr. Gray for the directorship of the FBI, have become convinced of the need for some kind of such legislation now, or certainly during this period following the death of Mr. Hoover, who was a man unique, a Director sui generis of the FBI.

As we look forward into the future, I think there needs to be a very close look given by the Congress to this matter, so as to reduce the possibility of a director who would be subservient to the White House politically, under any administration, be it a Democratic or Republican administration.

Earlier this year, I introduced a bill which would provide for a 4-year term for the Director of the FBI. The hearings, which I attended as often as I could attend, on the nomination of Mr. Gray

convinced me that that was the wrong approach; that a 4-year term for the head of the FBI would provide a situation——

Mr. JACKSON. Would coincide with the political term of Presidents.

Mr. ROBERT C. BYRD. Exactly, and I am afraid we would be going in the opposite direction from that in which we ought to go. It would contribute to a politicalization of the FBI. So I do not support that proposal any more.

I think the Senator's suggestion with respect to a 15-year term has much merit. I introduced legislation also today—cosponsored by Mr. MANSFIELD and Mr. BENTSEN—which would provide for a 7-year term for the Director and Deputy Director, with the possibility of reappointment.

As I indicated in my statement earlier today, I am not wedded to a term of 7 years. It could be 9 years, 11, 12, 15 years, or some such. I am not particularly wedded, moreover, to the idea to reappoint. Perhaps a longer term than 7 years with no opportunity for reappointment would be the appropriate step. I do not say.

In any event, now is the time for Congress to exercise its collective, considered judgment in connection with this important issue.

I was not able to hear the Senator's speech in its entirely, but I applaud him. I am glad to see the distinguished Senator from Washington, who has been in the Senate a long time, longer than I have been here, bring his talents to bear on this vital issue. I hope that other Senators will evidence a concern about the possible politicalization of this greatest law enforcement agency in the free world, and certainly the greatest intelligence gathering network in the free world—an agency which could potentially be harmful to the constitutional liberties of Americans.

I think now is the time for Congress to get a sure hold of this matter, so that the Congress can have some input into the direction, into the role, into the functions of the FBI, and the Senator is helping to lead in that direction.

Mr. JACKSON. Mr. President, first of all, I want to take this opportunity to compliment and commend the able Senator from West Virginia for his early recognition of what was——

The PRESIDING OFFICER (Mr. HASKELL). The Senators' 5 minutes have expired.

Mr. STAFFORD. Mr. President, I may not necessarily agree with what the distinguished Senator is saying, but for the next 3 minutes I will defend his right to say it. I will yield my 3 minutes to the distinguished Senator.

Mr. JACKSON. Mr. President, I thank the Senator for honoring an ancient tradition.

Mr. President, the distinguished Senator from West Virginia was one of the first to speak out on the real threat to the Federal Bureau of Investigation, and that was the politicalization of the FBI. He was the first to warn of that development. And, Mr. President, I think this goes to the heart of the problem. What both of us are trying to do, I think, with our respective bills is to protect the integrity of the FBI from any manipulation on the part of any President, Republican or Democrat.

As a young man just out of law school, and having been elected prosecuting attorney in my home county, I had the privilege of working with the FBI in one of the famous kidnaping cases which has yet to be solved. The Matson kidnaping case is one of the unsolved cases. I must say that my experience firsthand in dealing with the FBI on a day-to-day basis was indeed a most refreshing experience. The professionalism, the honesty, the integrity that existed in that organization was something that made me proud.

There have been differences about Mr. Hoover over the past, and that is in the American tradition. I must say that we all are proud of the fact that, despite the controversy that raged from time to time over the FBI, not once was the finger of corruption ever pointed at the FBI.

I think this is the important consideration that we as Senators must face up to in connection with the successor to Mr. Hoover, and I believe that we need to provide some legislative standards that will achieve the twin objectives of maintaining control over the FBI, but build around the FBI a wall of integrity and the highest degree of professionalism.

This is what I am trying to do. This is what the Senator from West Virginia is trying to do. And I hope that, before we act on another nomination, it will be pursuant to these new standards—standards that will make the FBI what it always has been, especially during the long tenure of Mr. Hoover—an incorruptible organization that has been respected by all Americans. This is our goal and this is our objective.

Mr. ROBERT C. BYRD. Mr. President, I again thank the distinguished Senator from Washington and congratulate him. I have now looked over his speech, and he certainly has proposed some very worthwhile suggestions. I join with the Senator, feeling that these bills, will at least stimulate activity and thinking on the part of the appropriate committees and the Congress toward developing a system which will guarantee insulation of the FBI Director from political pressures and political activity.

Mr. JACKSON. I look forward to working with the Senator in attempting to achieve that goal.

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

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

ADDITIONAL COSPONSORS OF A BILL

S. 920

At the request of Mr. JACKSON, the Senator from New Jersey (Mr. CASE) was added as a cosponsor of S. 920, to authorize the acquisition of the Big Cypress National Fresh Water Reserve in the State of Florida, and for other purposes.

NOTICE OF HEARING ON S. 1385

Mr. JACKSON. Mr. President, for the information of Members of the Senate and others, I wish to announce that the Subcommittee on Territories of the Committee on Interior and Insular Affairs has scheduled a hearing for Wednesday, April 11, to consider S. 1385, to amend section 2 of the act of June 30, 1954, as amended, providing for the continuance of civil government for the Trust Territory of the Pacific Islands.

The hearing will begin at 10 a.m. in room 3110, Dirksen Senate Office Building. Anyone who wishes to be heard in connection with the legislation should contact the committee staff in order that a witness list may be prepared.

NOTICE OF HEARINGS ON EXECUTIVE PRIVILEGE AND GOVERNMENT SECRECY

Mr. ERVIN. Mr. President, Senator MUSKIE has already anounced the joint hearings on executive privilege and secrecy in government which will be held by the Subcommittee on Separation of Powers of the Committee on the Judiciary and the Subcommittee on Intergovernmental Relations of the Committee on Government Operations on April 10, 11, and 12.

My purpose now is to inform the Members of a change in the location of the hearings from that originally announced.

The hearings will be held in room 6202, Dirksen Building, and will begin at 10 a.m. each day, on April 10, 11, and 12.

Mr. President, these are very important hearings, which may determine the kind of government the country will have have. I urge my colleagues to support this effort.

ANNOUNCEMENT OF HEARING ON FEDERAL CONSTITUTIONAL CONVENTION PROCEDURES BILL

Mr. ERVIN. Mr. President, on April 12, 1973, the Subcommittee on Separation of Powers will hold a brief hearing concerning S. 1272, the Federal Constitution Convention Procedures bill. This hearing has been called at the behest of representatives of 33 States that have petitioned, or may be contemplating petitioning, the Congress to call a constitutional convention for proposing an amendment to the Constitution of the United States.

The purpose of the hearing is to discuss what might transpire if a constitutional convention were to be called and to explain how the bill, if enacted, would provide orderly rules and procedures to be followed. It is not the purpose of the hearing to discuss any particular constitutional amendment that has been proposed or that may be contemplated.

The hearing, which is scheduled to last only 1 hour, will begin at 9 a.m., Thursday, April 12, 1973, in room 4200, Dirksen Building.

Interested persons are invited to be present.

NOTICE OF FIELD HEARING IN NEWARK, N.J., ON S. 6, "EDUCATION OF ALL HANDICAPPED CHILDREN ACT"

Mr. RANDOLPH. Mr. President, may I announce that the Senate Subcommit-

tee on the Handicapped has scheduled a hearing in Newark, N.J., on S. 6, the "Education for all Handicapped Children Act."

The hearing will be held on Monday, April 9, at the Mount Carmel Guild Diagnostic Center, 17 Mulberry Street, Newark, N.J. This is the first of a series of hearings on this legislation.

Anyone wishing to express his views on this bill may contact the professional staff member of the subcommittee, Mrs. Patria Forsythe, at 225-9077.

QUORUM CALL

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

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 a joint resolution (H.J. Res. 303) to authorize and request the President to proclaim April 29, 1973, as a day of observance of the 30th anniversary of the Warsaw ghetto uprising, in which it requested the concurrence of the Senate.

HOUSE JOINT RESOLUTION REFERRED

The joint resolution (H.J. Res. 303) to authorize and request the President to proclaim April 29, 1973, as a day of observance of the 30th anniversary of the Warsaw ghetto uprising, was read twice by its title and referred to the Committee on the Judiciary.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States, submitting a nomination, was communicated to the Senate by Mr. Marks, one of his secretaries.

EXECUTIVE MESSAGE REFERRED

As in executive session, the Acting President pro tempore (Mr. JOHNSTON) laid before the Senate a message from the President of the United States submitting the nomination of Fred Charles Ikle, of California, to be Director of the U.S. Arms Control and Disarmament Agency, which was referred to the Committee on Foreign Relations.

QUORUM CALL

The ACTING PRESIDENT pro tempore. Is there further morning business?

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

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

The second assistant legislative clerk proceeded to call the roll.

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

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

AUTHORIZATION FOR SECRETARY OF THE SENATE TO RECEIVE MESSAGES FROM THE HOUSE OF REPRESENTATIVES AND THE PRESIDENT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Tuesday next, the Secretary of the Senate be authorized to receive messages from the House of Representatives and from the President of the United States, and that any such messages may be appropriately referred.

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

AUTHORIZATION FOR THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, AND THE ACTING PRESIDENT PRO TEMPORE TO SIGN DULY ENROLLED BILLS AND JOINT RESOLUTIONS

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Tuesday next, the Vice President, the President pro tempore and the Acting President pro tempore may be authorized to sign duly enrolled bills and joint resolutions.

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

AUTHORIZATION FOR COMMITTEES TO FILE REPORTS UNTIL TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that during the adjournment of the Senate over until Tuesday next, committees may be authorized to file reports.

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

ORDER FOR RECOGNITION OF SENATORS DOMINICK, GRIFFIN, AND ROBERT C. BYRD ON TUESDAY, APRIL 10

Mr. ROBERT C. BYRD. Mr. President I ask unanimous consent that on Tuesday next, following the recognition of the two leaders or their designees under the standing order, the distinguished Senator from Colorado (Mr. DOMINICK) be recognized for not to exceed 15 minutes; to be followed by the distinguished Senator from Michigan (Mr. GRIFFIN), for not to exceed 15 minutes; to be followed by the junior Senator from West Virginia (Mr. ROBERT C. BYRD), for not to exceed 15 minutes.

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

ORDER FOR TRANSACTION OF ROUTINE MORNING BUSINESS ON TUESDAY NEXT

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on Tuesday next, following the recognition of Senators under orders previously entered, there be a period for the transaction of routine morning business for not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

ORDER OF BUSINESS

(The remarks Senator JACKSON made on the introduction of S1502, the FBI Reorganization and Reform Act of 1973, and the remarks thereon by Senator ROBERT C. BYRD are printed earlier in the RECORD under Statements on Introduced Bills and Joint Resolutions.)

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

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.

ADDITIONAL STATEMENTS

ABC-PEABODY AWARDS—WILLOWBROOK

Mr. JAVITS. Mr. President, Willowbrook State School should conjure up images of learning set in an atmosphere of pastoral serenity. However, the investigative reporting by Geraldo Rivera on WABC-TV in New York focused public attention on the unusually tragic conditions which existed at the Willowbrook State School for the Mentally Retarded.

We were all shocked and troubled and at the request of Governor Rockefeller, I asked the Federal Government to do everything in its power to assist the State of New York in improving the situation at Willowbrook and any other New York State institutions with similar difficulties. A special action Federal team was formed, investigated and offered assistance. However, the experience has convinced me that legislation at the Federal level, setting strict standards for quality care and treatment of the mentally retarded, is needed to assure elimination of many of the abuses uncovered.

I introduced the "bill of rights for the mentally retarded" to overcome the dehumanizing conditions. The Handicapped Subcommittee of the Committee on Labor and Public Welfare—of which I am ranking minority member—has completed hearings on the measure and I believe it can be enacted into law this year.

WABC–TV—the ABC-owned television station in New York—award-winning presentation, "Willowbrook: the Last Great Disgrace," written and narrated by Geraldo Rivera, which in great measure contributed to the executive and congressional response, recently won the highly coveted Peabody Award. All New Yorkers should be proud of Geraldo Rivera and WABC–TV for receiving the Peabody Award which honors the most distinguished and meritorious public service broadcast.

I ask unanimous consent that the recent release describing ABC's Peabody Award accomplishments—which include not only the cited local investigative reporting program, but also its accomplishments in children's programing and Olympic coverage—be printed in the RECORD:

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

ABC WINS PEABODY AWARDS FOR CHILDREN'S PROGRAMING, OLYMPIC COVERAGE, AND LOCAL INVESTIGATIVE REPORTING, MARCH 26, 1973

The American Broadcasting Company has won three George Foster Peabody Awards for 1972 for its coverage of the 1972 Olympic Games in Munich, the "ABC Afterschool Specials" children's series and for a documentary on conditions at an institution for mentally retarded children by WABC–TV, the ABC Owned Television Station in New York.

The Peabody Awards, administered by the University of Georgia School of Journalism, are given annually to honor the most distinguished and meritorious public service by broadcasters. Presentation of the medallions and certificates will take place in New York City May 2.

The comprehensive ABC Sports coverage of the summer Olympic games suddenly and tragically became coverage of an international news event with the Arab terrorist attack on the Israeli Olympic delegation September 5. An ABC camera was the only free-moving camera on the scene that provided live coverage of the area to the entire world. The burden of reporting the violent attack fell to ABC sportscasters Jim McKay and Chris Schenkel, joined by ABC News Correspondent Peter Jennings. Jim McKay was recently honored with a Polk Award for his coverage of the events.

ABC provided over 64 hours of satellite coverage from August 26 to September 10. Roone Arledge, President of ABC Sports, was executive producer of the Olympics coverage, which received broad, critical acclaim, including praise from President Richard M. Nixon.

This is the second consecutive year ABC has won a Peabody for children's programing. "Make A Wish" was the award winner in 1971. It is also the second time the ABC Sports' coverage of the Olympics has won a Peabody. The presentation of the summer and winter Games was also honored in 1968.

The "ABC Afterschool Specials," hour-long ABC Entertainment specials for children, are telecast on the ABC Television Network the first Wednesday of each month (4:30 p.m., NYT). The series premiered in October, 1972.

Programs in the series include: "The Last of the Curlews," an animated story of a threatened series (October 4); "Follow the North Star," a drama about two young boys involved in the pre-Civil War underground railroad (November 1); "Santiago's Ark," the story of a boy who inspires his Spanish Harlem neighborhood with his imagination and ambition (December 6); also, "William," a music, comedy and drama presentation of Shakespeare's works (January 6), and "The Incredible, Indelible, Magical, Physical, Mystery Trip," a musical fantasy taking two children through their uncle's body (February 7).

Upcoming on April 4 will be "Alexander," the story of a whimsical old gentleman who captivates children, starring Red Buttons. "The Last of the Curlews" was repeated by popular demand on March 7.

The "ABC Afterschool Specials" were previously honored by Action for Children's Television.

The WABC–TV award-winning presentation, "Willowbrook: The Last Great Disgrace," was a half-hour special report written and narrated by Geraldo Rivera on conditions at Willowbrook State School for the Mentally Retarded in Staten Island, N.Y. and broadcast February 2, 1972. Al Primo was the executive producer and Steve Skinner was the producer.

The special was based on investigative reporting by Mr. Rivera for early and late-evening "Eyewitness News" programs in January.

The Peabody Awards were established in 1940 to perpetuate the memory of the late George Foster Peabody, a native of Columbus, Ga., who became a successful New York banker and philanthropist.

FOOD PRICES

Mr. RIBICOFF. Mr. President, the news on food prices continues to be grim. Yesterday the Labor Department revealed that the wholesale price index on all products increased 2.2 percent in the last month. Food alone rose by 4.6 percent. Fully one-third of the price increases—the largest 1-month rise in 22 years—was attributable to an increase in the prices of live cattle, hogs, and wholesale cuts of meat.

This runaway spiral in food prices must be stopped. A long range and comprehensive program is needed to control these costs.

My program to eliminate the multibillion dollar agricultural subsidy program, to suspend or eliminate tariffs and quotas on foreign food commodities in short supply, and to roll back and freeze prices at a lower level would provide an answer to the skyrocketing cost of food.

The American shopper cannot endure the continuation of this inflationary spiral in food costs much longer. It is time for Congress to take the steps necessary to remove the increasing burden on the shoppers of this country.

I ask unanimous consent that the following article be inserted at this point in the RECORD.

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

[From the New York Times, Apr. 5, 1973]

WHOLESALE RISE IN PRICES OF 2.2 PERCENT BIGGEST SINCE 1951—INDEX UP AT 21.5 PERCENT ANNUAL RATE FOR FIRST QUARTER OF YEAR—FARM COSTS KEY FACTOR

(By Edwin L. Dale, Jr.)

WASHINGTON, April 15.—The nation's rate of inflation in the last three months, as measured by the closely watched wholesale price index, was the highest since the Korean war and well above the worst inflation rate of the Vietnam war years, new Government statistics showed today.

The Labor Department said that the wholesale price index for March rose 2.2 per cent, both before and after adjustment for seasonal price changes. This was the largest monthly increase since 1951 and reflected big increases in both farm products and industrial products.

EXPORT CURB STUDIES

With varying time lags and in varying degrees, the wholesale price increases will be reflected in consumer prices. They have already been reflected in many consumer food prices.

Government officials, both publicly and privately, gave no indication that the new price figures would lead to tougher controls. They indicated only that they were considering one further tool, controls over exports of some products so as to increase domestic supply.

The report today by the Bureau of Labor Statistics said that the whole sale price index rose at an annual rate of 21.5 per cent in the first three months of this year, a big climb from the already high annual rate of 9.6 per cent in the final quarter of 1972.

While farm and food prices played a big part, the key index of industrial commodities, which is normally less volatile, rose at an annual rate of 10.3 per cent in the January–March quarter. This was far above the quarterly rates of increase in 1972, which were in the range of 2 to 5 per cent.

For March alone, the industrial commodities index rose by 1.2 per cent, both before and after seasonal adjustment. This was even larger than the unusually big increase of 1 per cent in February.

The index for farm products and processed foods and feeds rose 4.6 per cent last month, or 4.7 per cent after seasonal adjustment. The report said that the rise at the farm level was widespread, including livestock, fruits and vegetables, eggs, poultry, oilseeds, plant and animal fibers, such as cotton and wool, and fluid milk.

SOME DECLINE DISCERNED

The index contains a separate category of wholesale prices of finished consumer food products. This rose 4.6 per cent in March, the largest increase for any month since this statistical series began in 1947.

Herbert Stein, chairman of President Nixon's Council of Economic Advisers, said, "The price rises in the farm sector reflected the same forces that have been at work for several months." But he added, "There is evidence that prices of several key farm products have leveled off or declined since mid-March, when the wholesale price index was sampled."

Mr. Stein said, "The controls system will be adapted as necessary to play its most useful role in restraining inflation. But he stressed "the fundamental fact that the controls system can only be effective in an environment where demand is not generally excessive."

"The key to success in this," he said, "and therefore in the whole anti-inflation program, is to hold the Federal budget under prudent restraint, as proposed by the President."

George Meany, president of the American Federation of Labor and Congress of Industrial Organizations, commented, "The figures are proof positive that all food prices must be controlled stringently and at once."

Citing such food increases as a rise of 20.3 per cent in poultry prices last month, Mr. Meany said:

"No wage increases in the past month caused these increases, or the 25 per cent increase in edible fats and oils, the 18.3 per cent increase in plywood, the 7.4 per cent increase in lumber and the 7.1 per cent increase in wool fabrics."

Mr. Meany urged Congress to pass the version of the economic controls legislation approved yesterday by the House Banking Committee. This would roll prices back to the level of Jan. 10, when, Mr. Meany said, "they were already high enough."

Of industrial commodities, the report to-

day said that "lumber and wood products and metals together accounted for well over half of the rise" in the index, though there were increases in 14 of the 15 product categories.

These rises have not yet had much effect on consumer nonfood finished goods, though this category did rise four-tenths of 1 per cent in March.

[From the New York Times, Apr. 6, 1973]

PRICE SKYROCKET

The error of President Nixon's premature decision to relax mandatory price-wage controls is no longer open to serious debate. The astronomic rise of wholesale prices in the second full month of Phase 3—even sharper than their alarming jump in the first month—betokens imminent collapse of the anti-inflation offensive the President initiated so effectively twenty months ago.

Self-help measures, such as the virtually spontaneous meat boycott which millions of angry consumers all over the country are pursuing this week, cannot by themselves end the danger of a new price runaway. Despite the boycott-induced cuts in meat prices announced by one big supermarket chain, it is certain that the wholesale boosts will soon be reflected in markedly higher retail prices for thousands of items.

Maintenance of the current rate of climb could cut a quarter out of the purchasing power of the dollar in the course of a year. The rise is still most staggering in food, processed as well as raw; but the latest wholesale index erases any lingering doubt that the inflationary virus now has a strong foothold in the cost of industrial commodities, including factory products for home use.

The Cost of Living Council is already encountering its first serious difficulties in attempting to hold the amorphous Phase 3 line on wage increases. The pressure for boosts well above the old Pay Board guidepost of 5.5 per cent a year is bound to be increasingly insistent in major negotiations now under way. It will be no less insistent in thousands of smaller negotiations with a direct bearing on local living costs, such as those on the PATH and Long Island commuter lines.

Congress is demonstrating its consciousness of the mounting restiveness shown by consumers and workers and also of the many-faceted perils involved in a new take-off of the price-wage spiral. The latest expression of legislative concern was the vote of the House Banking Committee to recommend—unwisely, we think—a rollback of prices and interest rates to their Jan. 10 level.

We share the White House reservations about the wisdom of putting the President in a statutory straitjacket on the rules governing economic stabilization after the present law expires at the end of this month But Congress will have to set rules in the national interest if Mr. Nixon fails to move at once with the same decisiveness that he displayed in enunciating his New Economic Policy in August 1971.

The abrupt deterioration that has occurred since Phase 3 began in January makes it imperative that the President do more than merely turn the clock back to Phase 2. The mandatory controls in effect then should be broadened to cover all types of food. The ceilings belatedly fixed for meat at the highest level in history can hardly stand as the only curb on raw food prices.

If across-the-board restraints are established, consumers can help make them work by exercising a modified version of the pocketbook discipline underlying the present meat boycott, plus the moral discipline essential to ward off black markets and other abuses. But the need today is for the President to resume the leadership role he played admirably in Phases 1 and 2.

PRICES UP 2.2 PERCENT IN MARCH—WHOLESALE GAIN MOST FOR MONTH IN 22 YEARS

(By Peter Milius and James L. Rowe, Jr.)

The government's wholesale price index continued upward last montn, with a 2.2 per cent increase that will spill over into retail prices in the months ahead.

The rise was the greatest in any one month in 22 years.

A third of it stemmed from an increase it the prices of live cattle, hogs and wholesale cuts of meat. The index is based on prices as of March 13, two weeks before President Nixon imposed the current price ceilings.

Another third of the rise came from all other farm and food prices.

For the second month in a row, however, prices also soared in the industrial sector of the economy. Industrial commodities prices, the heart of the wholesale index and the part most economists consider the best reflection of inflation, went up 1.2 per cent—the most in any month since January, 1951. Lumber and nonferrous metals were the big offenders.

The Labor Department, which published the statistics yesterday, said the wholesale index stood at 129.7 in March, which means it cost $129.70 last month to buy what cost $100 in 1967. Wholesale prices in general were 10.5 per cent higher than in March, 1972, and industrial commodities prices, 5.1 per cent higher.

The new price index figures brought predictable and prompt reactions from Democrats in Congress and AFL–CIO President George Meany. Their view is that Phase III of price control, in effect since January, has been too weak.

Meany renewed his call for a price rollback and freeze of the sort the House Banking and Currency Committee approved Wednesday night. He also repeated his warning that labor will not accept government wage limitations without equal restraint on prices. "America's housewives, consumers and workers can't take any more," he said.

Sen. William Proxime (D-Wis.) said he will reintroduce a measure freezing wages and prices. It failed to pass the Senate by only two votes earlier this week.

The March figures, Proxmire said, prove that the country is no longer faced with "just a food question," but with "inflation that is really taking hold."

The White House, for its part, continued to oppose a legislated freeze or rollback. Treasury Secretary George P. Shultz told a Senate subcommittee that the House rollback-freeze bill would be "a catastrophe for the American economy," and renewed his warning that the President might veto it.

The administration's view is that rigid price controls are not the answer. The commodities whose prices are rising most—meat and other key farm products, lumber, fuel, various metals—it says are commodities for which world demand is simply greater than world supply.

The White House says the only way to reduce the prices of these items is to increase their supply. It argues that price ceilings would have the opposite effect, because they would discourage production.

Shultz said yesterday that 90 per cent of U.S. inflation since November is "accounted for by (these) items traded in international markets," and warned that "ceilings will not work without curtailing supply."

At the same time, Herbert Stein, chairman of the Council of Economic Advisers, said in a statement issued through his office that "the controls system will be adapted as necessary to play its most useful role in restraining inflation." He did not elaborate.

The President's statutory power to impose controls will expire April 30 unless he and Congress can agree in the meantime on legislation to extend it.

The House Banking and Currency Committee's bill would not affect wages. It would roll back all prices, interest rates and rents to their level as of Jan. 10 and freeze them there until the President could come up with an alternative to Phase III, which began Jan. 11.

Under Phase III, companies and unions are expected to abide by the government's anti-inflation standards on their own, with the government intervening only when pay or price increases are considered excessive.

The President's stated goal is to have inflation down to an annual rate of 2.5 per cent by the end of this year.

According to yesterday's compilation, wholesale prices rose at a seasonally adjusted annual rate of 21.5 per cent in the first three months of the year. Industrial commodities prices rose at a 10.3 per cent rate. For farm and food prices, the pace was 53.1 per cent.

The administration has said that the "annualizing" of price increases for any one month is misleading, but the Labor Department regularly annualizes them on a quarterly basis.

The March increase in all wholesale prices was 2.2 per cent before and after seasonal adjustment. The same was true of the 1.2 per cent increase in industrial commodities prices. Farm and food prices rose 4.6 per cent before and 4.7 per cent after adjustment.

The department said wholesale prices of consumer finished goods—those at the consumer end of the wholesale chain—rose an adjusted 2.2 per cent for the month. For finished goods other than food, the increase was 0.5 per cent. For food heading into supermarkets, the increase was 4.6 per cent, the largest in any month since the department began keeping track of such prices in 1947.

The administration has said it expects farm prices to start falling after midyear, as production starts catching up with demand, and Stein said "there is evidence . . . prices of several key farm products have leveled off or declined since mid-March," the time prices were sampled.

He acknowledged, however, that the "substantial" increase in industrial commodities prices was "disappointing news." He noted that hearings are now being held on lumber price controls and that the government plans to sell off some of the commodities in its strategic stockpiles, which would help bring down their prices.

[From the Washington Star-News, Apr. 5, 1973]

FOOD PRICE RISE SETS RECORD

(By Lee M. Cohn)

Wholesale prices soared 2.2 percent last month, the biggest rise in 22 years, with food prices surging a record 4.6 percent, the Labor Department reported today.

Herbert Stein, chairman of the Council of Economic Advisers, hinted in a statement after the figures were released that the administration may tighten controls to curb the galloping inflation.

The huge increases in wholesale prices will continue their upward spiral for several months, at least.

Accelerating inflation has pushed President Nixon into clamping price ceilings on meat, but there is a strong movement in Congress to crack down harder by rolling all prices and interest rates back to January levels.

Wholesale prices of livestock rose 9.3 percent from February to March, putting them 42.2 percent higher than in March 1972.

At the next stage, wholesale prices of meats, poultry and fish increased 7.8 percent last month to a level 29.7 percent above a year earlier.

The over-all wholesale price index rose 2.2 percent last month, both in absolute terms and adjusted for seasonal influences. That was an acceleration from an increase of 1.6 percent seasonally adjusted and 1.9 percent unadjusted in February.

The 2.2 percent rise last month, the sharpest increase since January 1951, at the height of the Korean war inflation, works out to an annual rate of 26.4 percent, meaning prices a year from now would be up 26.4 percent if increases continued at the March pace.

Stein in his statement said, "The controls system will be adapted as necessary to play its most useful role in restraining inflation." But he emphasized that controls can work only if the federal budget is kept "under prudent restraint."

The wholesale price index rose at a seasonally adjusted annual rate of 21.5 percent in the first quarter of this year, following a 9.6 percent rate of increase in the last quarter of 1972.

The public's attention centers on farm and food prices, but price increases accelerated almost across the board.

Industrial prices increased 1.2 percent last month, actually and seasonally adjusted, following an increase in February of 1.1 percent, or 1 percent unadjusted.

Last month's rise in industrial prices also was the sharpest since January 1951. These prices rose at a seasonally adjusted annual rate of 10.3 percent in the first quarter of this year, following a 2 percent rate of increase in the last quarter of 1972.

Farm and food prices are erratic, but industrial prices are considered a basic gauge of underlying inflationary pressures.

Near stability of industrial prices and a sharply curtailed food price increases would be necessary if the administration is to come near its goal of cutting the inflation rate at the consumer level to 2.5 percent by the end of this year.

President Nixon has been criticized for shifting in January from the mandatory price and wage controls of Phase II to the largely voluntary guidelines of Phase III. Stein's statement indicated the administration may yield to demands for a return to a control program along the lines of Phase II.

Within the over-all wholesale price index, wholesale prices of consumer foods—essentially the prices paid by retail markets—surged 4.6 percent seasonally adjusted and 4.5 percent unadjusted last month, following an increase of 1.6 adjusted or 1.7 percent unadjusted in February.

The 4.6 percent rise, which works out to an annual rate of 55.2 percent, was the biggest increase since the department started keeping figures in 1947.

Wholesale prices on consumer foods rose at an annual rate of 45 percent in the first quarter of this year, and last month were 17.4 percent above March 1972.

Wholesale prices of consumer goods other than food rose 0.5 percent seasonally adjusted and 0.4 unadjusted last month, down from a 1 percent increase on both bases in February. These prices rose at an annual rate of 7.5 percent in the latest quarter, and are 3.4 percent above a year ago.

Prices of Farm products increased 6.1 percent seasonally adjusted and 6.6 percent unadjusted from February to March, reaching a level 34.4 percent above March 1972. That seasonally adjusted increase was the biggest since December 1947.

In the broader category of farm products and processed foods and feeds, wholesale prices last month rose 4.7 percent seasonally adjusted and 4.6 percent unadjusted, following increases of 3.2 and 3.9 percent, respectively, in February.

These prices increased at a seasonally adjusted annual rate of 53.1 percent in the January-March quarter, after rising at a 30.1 percent rate in the preceding quarter. They were 25.1 percent above March 1972.

Wholesale prices of consumer goods, including food and other products, rose 2.2 percent seasonally adjusted and 2.1 unadjusted last month, following increases of 1.3 and 1.4 percent, respectively, in February. They rose at an annual rate of 21.7 percent in the first quarter of this year, up from 5.9 percent in the fourth quarter of last year, and were 8.9 percent over March 1972 prices.

The over-all wholesale index last month, which was 10.5 percent above March 1972, stood at 129.7, meaning that a broad range of goods that could have been purchased for $100 in the 1967 base year cost $129.70 last month.

THE REDUCTION OF DRUG USE AND GUN CRIMES

Mr. STEVENSON. Mr. President, on April 3, the Senator from Georgia (Mr. TALMADGE) offered amendments to the Omnibus Victims of Crime Act imposing mandatory minimum sentences for certain narcotics and gun offenses. I want to explain my votes against both amendments.

Like all Members, I fully support the purposes of those amendments, the reduction of drug use and gun crimes. In the absence of hearings we were, however, legislating in ignorance and at the risk of encouraging crime and the acquittal of drug and gun offenders.

The craving of addicts for hard drugs is so strong and uncontrollable that they are willing to pay a high price for a daily fix. If the pusher faces a higher penalty, he may raise his prices because of the increased risk. And the addict would then commit more crimes to buy the same amount of drugs. If that were to happen, the drug offense amendment could make the streets of our cities even less safe than they are today.

In the case of the amendment imposing mandatory sentences for certain gun crimes, a similar uncertainty exists. Will the proposed amendment reduce gun crimes or will the criminal be more likely to use his gun to eliminate witnesses? Of one thing we can be certain. That amendment would establish a peculiar governmental preference for crime by knife or other lethal weapon less commonplace than the gun. To the victim it makes little difference. The end result of gun, poison, the straight edge razor, are the same. I would have thought it would make little difference to the Senate, too, and that the punishment for the crime by one weapon might fit the other. As it is under this amendment the Senate seems to express a distinct preference for killing by anything but gun.

I recognize that the handgun is the crime gun in America. Most violent crimes, and they are now rising at an appalling rate, are committed with a handgun. About 75 percent of all policemen killed in the line of duty are killed at the point of a pistol.

If more of us were ready to stand up to the gun lobby, and strike a true blow for law and order, we would enact handgun controls. We would act to take handguns from the hands of those who misuse them. This mandatory sentence amendment is a tired, old gun lobby amendment with which I am long familiar. It is trotted out regularly in State capitols also to distract government from its duty to control access to handguns. Intimidated and distracted, government reacts in righteous indignation to such instruments of possible injury as firecrackers, automobiles, and dogs, but not to the principal instrument of crime—the handgun.

There are no cheap and easy answers. Mandatory sentences do not deter crime. The criminal does not open the statute books or hire a lawyer to discover the penalty before committing the crime. He does not expect to be caught. The certainty of being caught and punished deters. We would be wiser to increase the risks of being apprehended by aiding the law enforcement agencies. Most violent crimes are committed in moments of passion—in the bedroom or barroom.

The Chicago Tribune reported last June that of the nearly 10,000 Americans who had been slain by handguns in 1971 and the first half of 1972, about 7,000 were shot down "in domestic spats, tavern brawls, or in disputes over card games." Violent crimes are also committed by people in need of a fix—and in all such cases with no thought to the consequences. That is why it is important to limit accessibility to the handguns. Their ready accessibility makes the crimes of passion more possible and more destructive.

Most authoritative criminologists and judicial experts oppose mandatory sentences. Such rigid sentences are necessarily imposed for an offense committed in an infinite variety of different circumstances. The Congress cannot justly impose the sentence to fit every circumstance. Only the judge is in a position to weigh all of the factors and impose a sentence which fits the circumstances of the particular offense. While many judges have been too lenient, they are in the main in the State judicial systems. We, in the Senate, are dealing with Federal offenses in the Federal courts.

Federal judges are appointed for life. They are insulated from pressure and temptation. In the main, they are conscientious and able men, and they deserve our confidence. They are in a better position to impose the sentences than are we. What is more, they already have the authority to impose severe sentences for these offenses. They can impose up to 30 years imprisonment for the second offense drug pusher now. I believe that long penitentiary sentences are in order for those who feed upon the flesh of the weak by pushing hard drugs. Such sentences can be imposed now—and they are being imposed now by Federal judges. This amendment will in some cases cause no sentence at all to be imposed because courts will at times be reluctant to convict if the sentence is automatically 30 years in the penitentiary.

As for the gun offenses, extra mandatory sentences are already required. They have been since 1968, and since then violent crimes have increased by about 37 percent. On the basis of such empirical evidence alone one might logically con-

clude that such sentences are more likely to incite than to deter crime.

In addition to the other peculiarities of these amendments, a difference of 1 milligram in the weight of the drugs sold by an offender could make a difference of 30 or more years in the penitentiary, assuming the court convicted the overweight pusher. And since the mandatory sentence is applicable only to nonaddict pushers, a sure way to escape is to get hooked. It offers a possible incentive to addiction.

The Judiciary Committee has before it the most comprehensive proposals on the Federal criminal code ever assembled. Mandatory minimum sentencing is among those proposals. We will soon have an opportunity to consider the question again and in a more informed fashion than we could on April 3. I would prefer not to run the real risk of enacting counterproductive legislation, and I voted against both amendments, quite prepared to take a fresh look at the issue with the benefit of any additional evidence.

Mr. President, I voted for the Omnibus Victims of Crime Act, with the Talmadge amendments included, upon final passage. But I respectfully suggest to the Senate that it would be wrong now to content ourselves with paying the widows of law enforcement officers, instead of saving their husbands' lives. The Eisenhower Commission staff report on firearms estimated that the U.S. rate of gun homicides is about 40 times higher than in England and Wales where there is much stricter gun control, and the U.S. gun robbery rate may be over 60 times higher. Even when the greater incidence of homicide and robbery in the United States is eliminated from the comparison, statistics show that when homicide occurs in the United States, guns are used three times as often as in England and Wales, and in robberies, guns are used six times as often in the United States.

The fear in our streets will not be relieved by this act any more than it has been by varnished FBI statistics or the self-serving statements of the President and Attorney General. It will not be ended by mandatory sentences, the death penalty, castration or any of the other simplistic suggestions we have received lately. With crime rampant in the streets, the people are due some straight talk and moral leadership.

Permit me, Mr. President, to share with my colleagues the straight talk of a constitutent on crime, law and justice. I do not know this individual and will respect his anonymity. He asks, eloquently and forceably, for commonsense and a new political morality.

It would be well for us to listen to the people more, and so I ask unanimous consent that this letter from an unknown constituent to printed in the RECORD.

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

MARCH 27, 1973.

HON. ADLAI E. STEVENSON III,
U.S. Senate,
Senate Office Building,
Washington, D.C.

DEAR SENATOR STEVENSON: From the White House comes a call to re-institute the death penalty. From South Africa, perhaps an appropriate citadel for the purpose, the White House's resident religious presence issues a call for castration.

One can suppose that the desire might be strong, if unspoken at this point, to chop the hands from shoplifters, to gouge the eyes of peeping toms, to slice the tongues of slanderers. And indeed, a considerable portion of the electorate might very well assent to these proposals in any currently held referendum. If nothing else, the likelihood of the passage of the newly proposed revisions in the criminal code is probably quite high.

How long will it take us to face up to the responsibilities of our society on a rational, compassionate basis? At what point will we finally realize that the "hard line" approach has always been counterproductive? That a healthy, orderly community is not incompatible with a high degree of individual freedom? That the Law can be effective and just without being oppressive? That moral questions simply do not lend themselves to legislative fiat?

Basically I am a middle-age male of typical lethargic tendencies. I like order and routine. I am distressed by chaos and conflict. I am content to leave and to be left alone, undisturbed. Why, then, do I feel this rage and frustration? Why do I bombard my legislators in the manner of a common scold? Whence comes this rising rebelliousness?

It is, I think, because of the affront to everything for which we supposedly stand. I cry out in this way because to remain silent in the face of this barrage seems to me to run the danger of giving tacit approval to that which ought to be exposed for what it is: a series of gross insults to the individual, and thus, because we are a nation of individuals, to our national purposes.

I have come, reluctantly, to feel that our Executive leadership has, over the past quarter of a century, been disastrous. For various reasons which in retrospect seem to have been considered only in the most shallow way, we have had a chronic cold war, two hot ones, a bully-boy invasion of one Caribbean state, a near miss or two in another, and heaven knows how many minor incidents of muscle flexing—the upshot of which has been to leave us with a bloated military machine calling most of the shots in economics and in foreign relations, a thoroughly distorted set of social goals, near runaway inflation, utterly alienated minority groups of all persuasions, crime- and drug-ridden communities of all sizes, and a general sense that we are demonstrably less secure in our persons and in our futures than when it all began.

And the answers proposed? The shoddiest banalities. I am appalled at the pandering to fear, prejudice and the desire for vengeance. I am dismayed at the shallow appeal to a dubious "morality." I am disheartened by the knowledge that, at this late date, the only leadership given us is back toward long discredited repressions which never, never can do the job that must be done in a free society.

Make no mistake. We *do* have a job to do. We *do* have problems—serious ones of crime and poverty and addiction. We *do* need answers. We *do* need ways to cope with dilemmas which have no answers. But we do *not* need to extend an already overlong victory of know-nothingism in high places. We just *can't* go in the direction proposed. It offends every decency we supposedly stand for, and verifies the worst charges made against us.

Think for a moment of the months and years spent by thoughtful men and women trying to find out those things we need to know about our society and ourselves. Think of the reports which have been turned out at the bidding of Presidents: on poverty, on our cities, on civil disorder, on racial and ethnic interrelationships, on obscenity, on drugs, on more subjects than I can now readily bring to mind.

And, uniformly, these same Presidents have "rejected" the findings of the study group members—not to mention the wealth of independent research data available in any good library. Instead, we plunge ahead with proposals for increased doses of the same medicines which have proved so utterly without merit that the problems they are touted to ameliorate only grow worse with their application.

And so we have now the same old, tired, "get tough" proposals all gimmicked up and presented with the pompous moralizing deemed essential for the occasion. We are asked to re-institute the death penalty in the face of all reputable findings that it deters no one, and only adds a dimension of brutality to the State's method of coping with its problems. We are asked to stiffen penalties for drug usage and abuse in the face of overwhelming evidence that such an approach will not work—that it is probably in great part just such strictures which make dealing in drugs a highly profitable challenge, thereby accentuating the problem.

We are asked seriously to accept a newly proposed criminal code which, among other things, deals in moral areas best left out of any statutes, and which, in other areas needing attention, seems designed more to repress than to protect, to quash disagreement rather than to let fresh air in. Thanks to the 1968 crime bill's misuse, we are now laying, thanks to the LEAA, a foundation which could easily, under slogans of law and order, bring us to "1984" several year ahead of schedule. Now we are asked to back up the overblown hardware with statutory imprimatur.

Senator, whether I ever see an issue of "Playboy" or "Penthouse" again is of little distress to me. Whether "adult" bookstores and film houses disappear is of little concern. Yet in a real sense I know that a "crackdown" on "obscenity" would deprive me of my right to exercise a judgment, even of a comparative for instructional purposes for my children. And I would, I fear, to that extent be less able to insist on my right to possess and read anything which dealt in words, ideas or descriptions offensive to the regnant authority.

I would look with joy upon a world in which, at any hour, in any place, my loved ones could walk without fear of personal violence. Yet we avoid dealing with root causes and ways to maintain order with minimum force, refuse to attack the outrageous use of firearms with effective controls, and preach more weaponry, more stop-and-frisk, more preventive detention, while leaving our court and prison system to decay even further. True, in an armed camp, the streets are often safe—except perhaps from the street patrols.

It would not disturb me if I never again hear the names Ellsberg, Anderson, Seale, "Yippie", etc., etc. Nor do I consider Sander Vanoucur or William Buckley the source from whom all wisdom flows. For reasons having to do with the way I would *like* to feel about my government, I fervently wish I had never heard of he Watergate, or at least that it would not leap at me from the papers each day.

And yet. If contrary opinions are given no platform, don't we also insulate ourselves from the healthy growth that can come from vigorous give and take? It is true that dissent may sometimes breed rather uncomfortable discussion—but it also affords redress from oppression. And if I don't know how my government has wounded me, am I really better off? Surely I will come to be aware that it is to be trusted simply by my own experiences. But it may then be too late.

It may even now be too late for painless so-

lutions. But isn't it time to listen to those who have immersed themselves in the study of cause and effect? Isn't it time to take to heart the reports of men and women who have been commissioned to tell us how our social disruptions have come about—and what can be done about them? Isn't it time to seek out the *best* counsel, rather than that which accentuates the worst in return for some unthinking votes?

There must be—there surely is—a better way than the path down which it is proposed we travel. But I fear that the appeal to the emotions is so strong that we may be led that way to our long term detriment—unless strong voices are heard to the contrary—unless good men now stand up and reaffirm our national purposes in the spirit of the best that is in us.

I am, in all candor, weary of writing letters like this which sound more and more querulous even to me. But I shall continue to write, if only to let you and my other representatives in Congress know that there are those of us who are as disturbed about our problems as any of the "hard-liners." We feel strongly, however, that reason and the results of empirical testing point toward a far, far different prescription for relief. We are certain that the Administration's proposals would do violence to our system, while missing their supposed target by a wide margin.

Please, Senator Stevenson, your voice is needed.

Sincerely,

——— ———.

ON NATIONAL TEXTILE WEEK

Mr. ERVIN. Mr. President, from the earliest days of recorded history, man has twisted plant and animal fibers into yarns for baskets, nets, and fabrics which have given him the clothing and shelter necessary for survival.

The making of yarn, fabric, and clothing has been an integral part of all cultures as far back as anyone can determine. We know, for example, that in ancient India, people spun yarn from cotton they called "vegetable lamb" and wove cloth from it even before the time of the ancient Egyptians. For thousands of years, flax was cultivated in Mesopotamia, Assyria, and Egypt and its fibers were spun into yarn. In China, silk manufacture began sometime around 2640 B.C. when the people experimented with the culture of silkworms and tested the practicability of using the thread from the cocoon for yarn which would be woven into fabric.

Here in the United States, an infant textile industry was spawned during the Industrial Revoluntion, and ever since then, it has served us well as a provider of jobs and the clothing and shelter which has contributed to our high standard of living.

Today, textile manufacturing is one of our most basic and essential industries, providing employment for nearly 1 million people, directly, and another 2.4 million in apparel and related industries. Textile and apparel manufacturing today account for one of every eight manufacturing jobs in this country and provide an annual payroll of $10 billion.

The textile industry is the major customer for our 675,000 cotton farms and the sole customer for 200,000 wool growers. In addition, 112,000 jobs in the man-made fiber industry depend on textiles.

The textile industry has helped make our Armed Forces the best clothed, housed, and protected in the world. The industry has been called second only to steel in military importance.

While many of our textile mills are concentrated in the Southeast and New England States, textiles, is, in a very real sense, a national industry. There are some 7,000 textile manufacturing plants in 42 States turning out annually some 17 billion square yards of fabric for use by industry and consumers.

While the textile manufacture is steeped in tradition, it is one of the most modern of our American industries, contributing significantly to our exploration of outer space and a higher standard of living throughout the world.

It is, therefore, most appropriate that our Nation during National Textile Week, April 1–7, honors this industry and the contribution to a better way of life it is making day in and day out.

All Americans should join in paying tribute to an industry which has throughout our history contributed so much to the betterment of mankind and his comfort, convenience, and prosperity.

COST OF LIVING COUNCIL PUBLIC HEARINGS ON LUMBER PRICES

Mr. McCLURE. Mr. President, the Cost of Living Council is in the final day of public hearings on the subject of recent rapid increases in lumber and plywood prices. Some of my remarks call attention to the responsibility of Congress in dealing with this situation. In view of this, I ask unanimous consent that this statement be printed into the RECORD.

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

STATEMENT OF SENATOR JAMES A. McCLURE TO COST OF LIVING COUNCIL PUBLIC HEARINGS ON LUMBER PRICES, APRIL 5, 1973

In 1968 Congress established housing goals of 2.6 million new and rehabilitated units per year for a ten year period. The year 1969 produced only 1.5 million starts and only in 1972 have we begun to come close to that commitment for home construction with 2.38 million housing starts. We are here today to face up to a serious problem of lumber and plywood supply and price in the present heavy demand situation. Congress will not back away from the commitment made in 1968 for a level of housing starts to provide decent housing for Americans as a possible solution to easing the pressure on lumber demand.

Congress has made the commitment for housing goals; it is also incumbent on Congress to make the commitment for providing the raw materials for this housing, in those areas where it has the power to act. Wood construction items come from manufacturing timber harvest from public lands, private lands, and from lumber imports. On those public and private forest lands that are responsive to intensive forest management, there needs to be the commitment and funding for long-range availability of sustained yield production for our needs.

Price ceilings and press announcements of crash programs as an approach to lumber price stabilization can only be described as a short-term band-aid effort, *unless* serious effort is made to insure appropriate intensive forestry on productive forest lands, and that the full allowable cut under the concept of sustained yield and multiple use be made available for harvest.

The Forest Service standard land use classification has many designations under the total Gross National Forest Area. These reflect the capability of the land to serve a variety of uses. The commercial forest lands are those lands that can grow timber on a sustained yield level for our needs. All those lands so designated must be available to contribute to the allowable cut, recognizing full attention to the protection of the environment. It needs to be emphasized that this word *environment* includes our social, economic, as well as natural, parts of the picture.

Funding, manpower, and timber access are all key targets to accomplish the job. Since timber growing is a long-term project, the commitment must be made on a long term basis. Recent increased attention to the natural environment in planning timber harvest activities has resulted in more money necessary to prepare a timber sale. Last year's suit on National Forest roadless areas has created an impact in reducing the Forest Service ability to develop new areas of commercial forest land for timber harvest without greatly increased costs, time and manpower.

Forest Service Permanent Personnel Ceilings for the following years are:

1974	18,810
1973	20,400
1972	20,575
1971	21,515

This is hardly a full commitment to a long term solution of the problem of timber supply!

Trees that can make softwood lumber are dying at a level of 11.35 billion board feet per year, according to the draft 1970 Timber Review published by the Forest Service; part of the increased supply answer must lie in recovering more of this volume.

Total softwood log exports from the United States rose by 33 percent in the past four years to the 1972 level of 2.8 billion board feet. Our Canadian lumber imports jumped 53 percent in the same period to 8.87 billion board feet. Hardly a net gain in balance of payments.

The above statistics suggest we need to get to work at home and realize the wood growing capability that our forest lands can contribute under sound intensive forest management.

Part of the problem with regard to lumber prices and supply has to do with the supply of raw material available to saw mills and plywood manufacturers, particularly from the Forest Service, and other government agencies selling timber. These sales are appraised on a "residual value concept" based generally on a lumber sales index which tends to lag behind the current market up to several months. I cite this as background to illustrate that in a highly volatile market, either upward or downward, the cost of raw materials is not responsive to the same degree as the market change. If it is the objective to establish a ceiling on prices, a look at recent history might tell us it is just as fair to consider establishing a "floor under losses", as a "ceiling on profits". For example, the Western Wood Products Association Dry Douglas Fir-larch Index (1957 to 1960 basis) reached a high in April 1969 of 130.23, and dropped off in January 1971 to 78.32. In December 1972, it was back to 132.05 and for February 1973, it rose to 150.04, and the March index will be still higher. All of these factors must receive careful consideration in structuring any effective and equitable price and supply stabilization program. The money supply situation, projected housing starts for 1974, and many other factors may change the lumber

and plywood economic picture as drastically as the 1969–1971 change cited above.

We are only kidding ourselves if we think a sophisticated program of price regulation is going to solve the problem. Price controls without a fully funded program directed to forest management, on those lands so designated for timber production, will lead us to going around in circles getting nowhere.

Adequate funding for growing and managing timber, forest access, and manpower to do the job may create the situation where the Law of Supply and Demand (which has not been repealed or amended), can come into play, and this present situation may have the opportunity to resolve itself without resorting to price controls.

All of us involved—Congress, the Administration, and the Public—need to have a hand in getting the show on the road.

LAND USE

Mr. NELSON. Mr. President, a most revealing survey has just been completed by the Christian Science Monitor. In the final part of a six-part series, "Land in Jeopardy," the Monitor printed a questionnaire for readers of the series to fill out and send in, if they so desired.

A total of 1,449 readers did so. And, overwhelmingly, they said there was a need for both more environmental regulation and better consumer protection. Seventy-two percent of those answering agreed with a suggestion similar to an amendment that Mr. JACKSON, Mr. HATFIELD, and I have cosponsored as title VI of the Land Use Policy and Planning Act of 1973.

In the Monitor questionnaire, 72 percent of the readers said that:

Developers should not be allowed to sell any land until all pollution control and land-use permits required for lakes, canals, sewage, or solid-waste disposal have been authorized by public agencies.

I ask unanimous consent that Mr. Cahn's report in the Christian Science Monitor on the results of this survey be printed at this point in the CONGRESSIONAL RECORD.

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

[From the Christian Science Monitor, April 6, 1973]

LAND USE

(By Robert Cahn)

WASHINGTON.—"Land developers have failed to control themselves. Therefore, controls must be applied."

This comment from a Stamford, Conn., reader typifies many of the 1,449 replies received by March 1 to a questionnaire published with the final installment of the recent six-part series on the abuses of the installment land-sales industry.

A total of 1,015 individuals (70 percent) would tighten regulation of the industry. Only 18 people (less than 1 percent) would decrease regulation.

Readers of the series were also overwhelmingly in favor of increased environmental protection for the land. Seventy-two percent indicated that developers should not be allowed to sell any land until all pollution control and land-use permits required for lakes, canals, sewage, or solid-waste disposal have been authorized by federal agencies.

Only 2 percent said that no new regulations are needed to preserve the land.

A majority also favored:

(58 percent) requiring developers to post performance bonds to guarantee installation of promised facilities.

(61 percent) requiring developers to advertise only those facilities which already exist or whose provision is guaranteed.

(56 percent) requiring written warning from developers that they do not resell land for the buyer when this is indeed the case.

(58 percent) requiring developers to conform with state land use planning before selling any lots.

All but 17 of those answering indicated they would extend the present federal 48-hour "cooling-off" period in which a buyer can revoke his sales contract and would make it irrevocable (the right can now be waived). Fifty-five percent said they favored a two-week cooling-off period.

SURVEY CALLED HELPFUL

"The Christian Science Monitor survey shows that, once again, the American public is far ahead of our institutions in its awareness of a serious environmental problem and in its willingness to have something effective done about it," commented Sen. Gaylord Nelson (D) of Wisconsin. Senator Nelson has introduced the second home and subdivision regulation bill which would require developers, before any lots are sold, to acquire a permit from a state land use planning agency and to conform with environmental safeguards.

Rep. Morris K. Udall (D) of Arizona, sponsor in the House of both consumer and environmental legislation, said the Monitor readers' response would help in corroborating the need for new laws.

"The number and character of the responses to the Monitor survey show that the people are simply fed up with the poorly planned and underfinanced developments as well as with shoddy land-sales practices," said Mr. Udall.

"In addition," he said, "I am hopeful that this significant response to the Monitor's questionnaire will demonstrate the need for passage of the bill strengthening the disclosure provisions of the Interstate Land Sales Act. Congress must move on these two fronts to save the remaining land and protect the consumer."

Administrator George K. Bernstein of the Office of Interstate Land Sale Registration (OILSR) of the federal Department of Housing and Urban Development (HUD) believes that the current act requires some changes to better protect the public. He says amendments now are being drafted.

"The conclusions of the Monitor readers certainly reflect the general tenor of consumer complaints we have received," Mr. Bernstein said.

"It will be difficult to argue against the need for some greater federal regulatory role if states do not very significantly increase their efforts to regulate developers," he added.

Replies to the Monitor questionnaire came from every states, from Canada, and from service men overseas. Many of the readers gave comments and signed their names, although this was not provided for in the question form. Some comments extended to several extra pages.

FEDERAL REGULATION OPPOSED

Although the majority of replies advocated increased regulation, many readers opposed federal regulation, or expressed philosophical doubts.

"The federal government already has too much to do with our lives as it is," commented a man from San Juan Capistrano, Calif. "We are utterly tired of being taken care of. The American people should act like big boys and girls and think and look before they buy."

Manuel S. Klausner of Los Angeles said he believed the series "has been strongly biased in favor of stronger government controls, and accordingly I would expect the response to your questionnaire to be highly distorted in support of the 'knee-jerk' pass-more-laws approach.

"I hate to see increasing government involvement and controls in areas where the individual should accept some responsibilities. However, I do think that government controls are necessary to protect the environment."

"All reports show that land developers have failed to control themselves," wrote Shirley Haner of Consumer Information Services, Stamford, Conn. "Therefore, controls must be applied."

Eighty-one percent of the replies indicated the readers had been solicited to buy land in remote subdivisions, and 73 percent of the people said they had been promised gifts or free trips. About one fourth of those replying said they had purchased land in remote subdivisions, and 61 percent of the buyers said they had seen the land before buying it. The purchasers were exactly evenly divided as to whether they felt "generally dissatisfied" or "generally happy" with their transactions.

OILSR Chief of Enforcement Richard H. Heidermann said that testimony received at public hearings and complaints received by mail indicate that the dissatisfaction frequently does not occur until several years after purchase.

"Buyers continually confuse the developer's selling price with the true market value," Mr. Heidermann said. "And some developers periodically notify purchasers that prices of similar lots or the value of their land has increased. When the purchasers complete their contract they often find that promised improvements have not been made and that the resale value is considerably less than the price they have paid."

"SECOND HOME" CONCEPT

Several readers complained about the philosophy of the "second home" concept.

"Ecological damage is related to too many people. And to multiply that by having two houses is absurd," commented a woman from Emigrant, Mont. "If people's own sense of responsibility cannot lead them to reduce their luxuries, then the government must."

A reply from a woman in Burnaby, B.C., noted that simpler living style is needed. "I think one home is enough in most cases, in view of environmental warnings," she wrote.

"Very few people can afford a second home," noted a reader in Santa Rosa, Calif. "A person who considers a second home should consult his banker and be told if his income warrants such an investment."

Many questionnaires asked for advice on where and how to resell lots, something neither this newspaper nor the federal government is able to give.

A particularly difficult decision for many people is whether or not to continue paying on installment contracts.

"A land sales contract is like having a tiger by the tail," commented a man on Orlando, Fla. "We bought land and can't afford to forfeit the money, and can't afford to keep paying $59 a month. And it has no resale value compared to what I have in it."

A Wisconsin couple wrote that they bought three lots under pressure and now have "too much money invested to let them go. There is no way we can find to resell, and we badly need this money now."

"We did not really need this property" wrote a woman in St. Joseph, Mich. A reader who described himself as a "senior citizen" said all his money "is in these lots and I am forced to live near poverty to pay the exorbitant real estate taxes."

A number of replies place the blame on salesmen. They advocated strict licensing laws and more developer responsibility for salesmen's tactics.

LACK OF QUALITY, ETHICS

An El Paso, Texas, man wrote that he had worked for four land developers and resigned each position for the same reason: "lack of quality and ethics in operation." I regret my own sales tactics and wish I could return all monies collected from my customers," he said. "Installment land sales is truly a national disgrace. Would that every citizen could read this series, then do something to ameliorate the deplorable situation."

Another reader said: "The tap root of the whole problem is the salesman and his endless lies. Salesmen should by federal law be held directly responsible for their tactics."

But another reader who identified himself as a salesman said a licensing law was not the answer. "As a salesman, I can assure you that requiring licenses will not improve the morality of the sales force. The employers have the real control over the way they want their land marketed."

Several people called attention to the need for better education at home and in schools.

"Begin showing parents and teachers they must teach the young that one never gets something for nothing," commented a Denver woman. "Apparently it is too late for adults to learn now."

Mr. Dean C. Armstrong of Carmel, Calif. commented that from 40 years experience in the consumer credit field he had found few people read the fine print in a contract. "A mandatory course in high schools stressing the importance of 'read before you sign' would help reduce the present unwise practice," he wrote.

Mrs. William A. Cole from Salt Lake City, who forfeited the down payment on a lot, commented that: "I learned a lesson of 'sales resistance' at the age of 21. It was worth the price to me."

Not all are taken in by high-pressure sales tactics though. In answer to the question about free gifts, a St. Louis man commented: "Five years ago I received a free transistor radio from a land sales company, but never bought any land. The firm went bankrupt. However, the radio still works."

Support for honest developers was registered by a number of people. "Some companies are no doubt on the up and up and should not be penalized for what the others have done," said a New York State woman.

Many of those responding felt strongly that the most important factor was protection of the land.

"I own land that could be subdivided," wrote a woman from Seattle, Wash. "But I would be willing to submit to any good legislation—our earth must come first."

THE QUESTIONS THAT WERE ASKED

Recently this newspaper published a six-part report on the billion-dollar business of installment land sales. The report found that while some companies have done a good job, others have gypped the public and ruined the environment. Today's page analyzes reader response to a questionnaire (reprinted below) which accompanied the final article in the Jan. 17–24 Monitor series.

1. PROMISED FACILITIES

Many people buy land on the basis of what the development will be like in the future, expecting lakes, ski slopes, roads, and adequate utility services. These facilities will only become a reality if the seller has the money or takes the action to install them. Complaints from numerous buyers indicate that facilities promised are not delivered. To solve this problem, federal law should:

(A) Require developers to post performance bonds prior to making sales, to guarantee the installation of promised facilities, 59 percent.

(B) Require the sales contract to list all promised facilities and legally bind the seller to complete them. 54 percent.

(C) Require that the improvements and facilities be completed before allowing any sales in the development. 28 percent.

(D) Leave the situation as it is. Anything that requires bonds or pre-completion money would hamper development and would raise the price of lots. 1 percent.

2. COOLING-OFF PERIOD

Some people sign installment sales land contracts hastily without thorough consideration. Most buyers who send complaints to federal and state agencies say they never would have bought if they had "thought it over." Most land companies admit that the vast majority of sales are made the first time they meet a buyer. To solve this problem, federal law should:

(A) Provide the following specific period of time during which the buyer may revoke his contract for any reason whatsoever and get his money back. 2 days 1 percent, 3 days 3 percent, 1 week 17 percent, 2 weeks 55 percent.

(B) Provide a cancellation period which cannot be waived by the buyer despite offers he may get from a developer. 35 percent.

(C) Allow no cancellations except for fraudulent sales practices. It is not up to the government to protect buyers as long as the developer has made full disclosure in a property report. A deal is a deal and people should live up to obligations. 18 percent.

3. SOLICITATION

Many prospects for land sales are lured into signing contracts by elaborate advertising sent through the mail or by sales pitches made by telephone, at free dinner parties, or in conjunction with free gifts or vacations. Later, they may find that the land is not as it was represented. To solve this problem, developers should:

(A) Be required to submit all advertising to the government for approval before use. 21 percent.

(B) Be required to advertise only those facilities which already exist or whose provision is guaranteed by bonding. 61 percent.

(C) Be required to perform everything advertised. 38 percent.

(D) Be required to incorporate all advertised promises in the sales contract. 53 percent.

(E) Not be interfered with. The government should not act as a censor. Federal Trade Commission laws now cover fraudulent advertising adequately. 3 percent.

4. SALES PRACTICES

Some people are induced to buy land by exaggerated statements about potential profits, by promises made by salesmen, money-back guarantees, offers to resell property for the buyer at any time, or by verbal asurances that the contract only makes a "reservation" for a lot and not a commitment to buy it. To solve this problem:

(A) The government should appraise the land to reveal its present and projected value. It should require this information to be used in advertising and property reports. 37 percent.

(B) All salesmen for installment subdividers should be required to obtain a federal license. 28 percent.

(C) Developers should be required to advise all purchasers in writing that they do not buy back or resell the land for buyers unless they actually do provide this service. 56 percent.

(D) All that is needed is better enforcement of the present federal Land Sales Act and the Federal Trade Commission's regulations which prohibit unfair, deceptive, or fraudulent sales practices. No new legislation is needed. 23 percent.

5. ENVIRONMENT

Premature subdivision of land before adequate state land planning has taken place may harm natural areas that should be preserved for future generations. Development activities such as building roads, destroying trees, digging canals, and making artificial lakes may lead to pollution or other environmental problems. I believe that:

(A) States should require all remote subdivisions to conform to a land-use plan prepared by a public agency as a prerequisite for selling any lots. 58 percent.

(B) Developers should not be allowed to sell any land until all pollution control and and-use permits required for lakes, canals, sewage, or solid-waste disposal have been authorized by public agencies. 72 percent.

(C) Bonds should be required of developers to compensate for damage to the environment. 31 percent.

(D) Resort-land developments for vacation homes should provide recreational open space more ample than in ordinary subdivisions. 34 percent.

(E) State and local authorities already adequately provide for prior environmental control of such developments. No new regulations are needed. 2 percent.

6. FEDERAL REGULATION

Many observers feel that the federal law regulating the developers is not strong enough and that there are loopholes in the law. The industry itself is opposed to strict regulation. The government should:

(A) Increase regulation of the industry. 70 percent.

(B) Decrease it. 1 percent.

(C) Be allowed to represent complaining buyers in civil class action suits for damages. 48 percent.

7. PERSONAL EXPERIENCE

Have you:

(A) Ever been solicited to buy remote land? 81 percent.

(B) Been promised gifts or free vacation trips to buy land? 73 percent.

(C) Ever purchased land in remote subdivisions? 24 percent.

8. IF YOU BOUGHT LAND, DID YOU:

(A) See the land before you bought it? 61 percent.

(B) See a lawyer before buying it? 8 percent.

(C) Build a house and live in it? 10 percent.

(D) Cancel your contract and forfeit your money? 9 percent.

(E) Cancel your contract and get your money back? 13 percent.

(F) Make a profit from selling it? 6 percent.

(G) Take a loss in selling it? 8 percent.

(H) Feel generally dissatisfied with your deal? 43 percent.

(I) Feel generally happy with your deal? 43 percent.

(EDITOR'S NOTE.—Percentages may total more than 100 since many people checked more than one option per question.)

ARBITRARY CHANGES IN FEED GRAIN PROGRAM

Mr. BAYH. Mr. President, on March 26 the Department of Agriculture announced a belated adjustment in the set-aside requirements for participation in the feed grain program this year. The post sign-up adjustment—unprecedented in its timing—reportedly was necessary because the March planting intentions report indicated that there would be a shortage of corn this year unless adjustments were made.

I am sympathetic to the need to insure adequate supplies of feed grains this year. However, I strongly protest the nature of the chosen adjustment. Those farmers who had signed up for the set-

aside program have suddenly been handed a large windfall. On the short end of the exchange are those farmers who had cooperated with the Department's request to plant their farm's full capacity; these farmers are now locked into the less profitable plan and have no chance to change on the basis of the new information.

Specifically, this year farmers were allowed to choose between two plans under the feed grain program. Under plan A, 25 percent of the corn or feed grains base was to be set aside, and relatively high payments would then be made to the farmer—based on his yield and allotment—to justify the fact that 25 percent of the feed grains base had been idled. Under plan B, a farmer did not have to set aside any land but agreed not to plant more corn than he had planted before. Theoretically, the Federal payments to the farmer B together with the extra profits provided by his fully operating farm would have produced an income equal to that of the farmer who had set aside 25 percent of his land. Sign-ups for these programs ended on March 16.

Suddenly last week, after farmers had made their decisions based on the original information, the Department changed a basic element in plan A by allowing farmer A to still qualify for the high Federal payments, while only setting aside 10 percent of his land. High Government payments on top of the profits which farmer A will realize by planting 15 percent more of his land means that plan A is far more lucrative than plan B. It is fairly clear that if the present terms of the farm program had been known during sign-ups, almost no farmers would have chosen plan B. However, farmers who sign up for plan B on the basis of earlier information have not been allowed to switch to plan A.

Mr. President, I have informally urged the Department to allow farmers under plan B to switch to plan A if they wish to do so at this point. The Department has pointed out that if zero set-aside farmers—plan B—switched to a 10-percent set-aside plan—plan A—as much land would be taken out of production as was just released by the change in regulations. I then requested that all sign-ups be reopened on whatever revised terms the Department felt were adequate to insure adequate supplies of corn and soybeans. The Department has indicated that it cannot revise the financial terms of the original sign-ups, since the contracts have already been signed. I am sympathetic to these two considerations. However, I am also sympathetic to those farmers who feel they have received discriminatory treatment because of the Department's belated realization that their programs for corn and soybeans had not been tuned finely enough to insure a proper balance between the two crops.

One fact is clear, Mr. President. The Department's desire to move away from a crop-by-crop supply adjustment program is premature. Our present problem indicates that, in fact, we need to focus even more attention on crop-by-crop supply adjustment; if the Department had delayed the close of sign-ups until the implications of the March 1 Planting Intentions Report were clear, it could have revised the terms of the programs without breaking contracts, or helping some farmers at the expense of others.

Mr. President, our small farmers rely on the supply and demand predictions provided by the Government. I believe that Indiana farmers are willing to make small sacrifices which will help provide adequate supplies of essential feed grains. But farmers cannot be asked to bear the brunt of the Government's hasty market projections, or to sit quietly while some farmers are given a windfall and others are told that they cannot have a crack at the same benefits.

In light of the situation, I believe the Department, at a minimum, should allow those farmers under the less profitable plan to plant a larger percentage of corn this year. I would also urge that price support loan levels be increased in case the export demand is not as large as the Department is presently anticipating. Most important, I hope the Department will take adequate precautions to see that the cooperation of farmers participating in the feed grains program will not be stretched like this again.

THE WAR POWERS CRISIS

Mr. JAVITS. Mr. President, at the request of the New England Law Review, I have prepared an article entitled "The War Powers Crisis" which embodies a full exposition of my view on this crucial constitutional issue which has now reached crisis proportions. As the war powers issue is of such importance to the Senate and the Nation, I felt it would be useful to have the text of my article appear in the RECORD. Mr. President, I accordingly 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:

THE WAR POWERS CRISIS

(By Senator JACOB K. JAVITS)

There is no longer any serious argument as to the existence of a constitutional crisis over the exercise of the Nation's war powers. The pertinent question is: What will the Congress—and the President—do about this crisis? The *de facto* concentration of plenipotentiary war powers in the hands of the President has subverted the letter and the spirit of the Constitution and has placed an almost intolerable strain on our national life as the deep wounds of the Vietnam experience so inescapably remind us.

In the decisive field of national security the awesome strength and vigor of the Presidency, in contrast to the comparative weakness and lack of cohesiveness of the Congress, is a cause for deep concern and even chagrin. For, the now almost unlimited power of the Presidency with respect to matters of war is a unilateral power not only to defend our nation wisely but also a unilateral power to involve us as in the quagmire of a Vietnam or in a thermonuclear holocaust.

The severe imbalance which has developed between the power of the President and that of Congress has evoked many charges of "usurpation." While "usurpation" is a heady word which may help to assuage our feelings, a review of the record of the past thirty years leading up to our present predicament does not, in my judgment, allow us the solace of attributing the result to Presidential usurpation. The Congress has given away its authority—not only by default and acts of omission—but even more importantly in an endless series of loosely-worded and broadly drawn delegations of authority to the President. To cite only one example, but they are numerous, how many of us—including myself—who voted for the Tonkin Gulf Resolution in 1965 do not feel uncomfortable today in rereading its extraordinary language: "the United States is, therefore, prepared, as the President determines, to take all necessary steps, including the use of armed force . . ."

No legislation can guarantee national wisdom, but the fundamental premise of the Constitution, with its deliberate system of checks and balances and separation of powers, is that important decisions must be national decisions, shared in by the people's representatives in Congress as well as the President. By enumerating the war powers of Congress so explicitly and extensively in article I, section 8, the framers of the Constitution took spacial care to assure the Congress of a concurring role in any measures that would commit the Nation to war. Modern practice, culminating in the Vietnam war and the result of a long history of Executive action employing the warmaking power which weaves in and out of our national history, has upset the balance of the Constitution in this respect.

The War Powers Act, of which I am the principal author, is a bill to end the practice of Presidential war and thus to prevent future Vietnams. It is an effort to learn from the lessons of the last tragic decade of war which has cost our Nation so heavily in blood, treasure, and morale. The War Powers Act would assure that any future decision to commit the United States to any warmaking must be shared in by the Congress to be lawful.

Our experience of the last five years or more has demonstrated how much harder it is to get out of an undeclared war than it is to get into one. In dealing with this situation, Congress has been forced back into relying solely on its "power of the purse" over appropriations. We have seen how difficult and unsatisfactory it is for Congress to try to get a meaningful hold on the Vietnam war through the funds-cutoff route.

Yet there is a group of pundits, historians, and commentators who would have us fly directly in the face of this tortuous experience and confine ourselves to the funds-cutoff route. Those who would so advise us are either too timid or too conservative to try institutional reform. They would have us face the Presidential war power so often used as a fine tuned, subtle, and decisive instrument with a clumsy, blunt, and obsolescent tool. The fund-cutoff remedy is there now and will be there when the war powers bill becomes law. It can then be an excellent sanction, but it is not a substitute.

The obvious course for Congress is to devise ways to bring to bear its extensive, policy making powers respecting war at the outset, so that it is not left to fumble later in an after-the-fact attempt to use its appropriations power. This is what the War Powers Act seeks to do.

If James Madison had pressed his point on September 7, 1787, during the debate in the Constitutional Convention, we might not be faced with our current agonizing dilemma. Madison proposed then that two-thirds of the Senate be authorized to make treaties of peace without the concurrence of the President. "The President," he said, "would necessarily derive so much power and importance from a state of war that he might be tempted, if authorized, to impede a treaty of peace." However, Madison withdrew his proposal without putting it to a vote.

It is not clear whether Madison was speaking seriously or facetiously. It is clear, however, that Presidents have tended to see their role, as Commander in Chief conducting a war, as the decisive power of the Presidency. President Nixon articulated this view very precisely, when he said last April:

"Each of us in his way tries to leave [the Presidency] with as much respect and with as much strength in the world as he possibly can—that is his responsibility—and to do it the best way that he possibly can. . . . But if the United States at this time leaves Vietnam and allows a Communist takeover, the office of President of the United States will lose respect and I am not going to let that happen."

The effort embodied in the War Powers Act is the fulcrum, in my judgment, of the broader attempt of the Congress to redress the dangerous constitutional imbalance which has developed in the relationship between the President and the Congress. Unless Congress succeeds in reasserting its war powers, I do not think it can succeed in reasserting its powers of the purse which have grown so weak in comparison with the Executive branch.

The publicists and the lawyers of Presidents have been busy for years now in advancing a new constitutional doctrine. According to this novel doctrine the President has inherent powers, in his role as Commander in Chief, to override any other powers conferred anywhere else in the Constitution.

We have reached a point where proponents of the Presidency seem to be claiming that the power of the Commander in Chief is what he himself definies it to be in any given circumstance. This is the challenge that must be met by the Congress. If this challenge is not met successfully by the Congress, I do not see how it can prevent the further erosion of its powers and jeopardize freedom itself.

I wish to emphasize my view that the Congress itself is on trial in the eyes of the people. The issue addressed by the War Powers Act is a fundamental constitutional issue.

It rejects the premise that the issue of "Presidential war" can be handled by making distinctions between "good" Presidents and "bad" Presidents. We could never arrive at an agreed criteria for making such judgments and there is no way such distinctions could be applied to Presidential wars on an *ad hoc* basis.

The need is for legislation which will assure Congressional involvement and the exercise by Congress of its equal share of the responsibility at the outset of all wars. Our constitutional system requires confidence that the Congress will act as responsibly as any President in the national interest. Even more significantly, it assumes that the national interest can best be defined and acted upon when both the President and the Congress are required to come to an understanding as to what is that national interest.

THE WAR POWERS ACT (S. 440)

Thus, in my judgment, the War Powers Act (S. 440) is one of the most important pieces of legislation in the national security field that has come before the Senate in this century. The bill's various sections are carefully interrelated and interdependent. I will concentrate on an explanation of the bill and how it is intended to work, and I shall try to dispel the allegations which have been made against it by the State Department and other critics.

I shall begin by dealing with the constitutionality of S. 440, as well as its historical background and then proceed to a detailed explanation of the bill.

In this connection we should begin with the words of the Constitution itself because from what many critics have said, it almost seems as if they have neglected to read what the Constitution in fact does say about the war powers.

WAR POWERS OF CONGRESS

Article I, section 8 of the Constitution enumerates the war powers of Congress. The list of these powers is both detailed and comprehensive:

"provide for the common defense."

"to define and punish . . . offenses against the law of nations."

"to declare war."

"to raise and support armies."

"to make rules for the government and regulation of the land and naval forces."

"to provide for calling forth the militia to execute the laws . . . and repel invasions."

"to provide for organizing, arming, and disciplining, the militia, and for governing such part of them as may be employed in the service of the United States."

The powers of Congress which I have just listed are extensive and specific, but the Founding Fathers went even further to buttress the power of Congress in this field. They did this by concluding article I, section 8 with an all-inclusive power—the "necessary and proper" clause, which empowers Congress: "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and *all other powers vested by this constituition in the government of the United States, or in any department or officer thereof* (italics added.)

THE PRESIDENT AS COMMANDER IN CHIEF

And, compared with the war powers of Congress so specifically enumerated in the Constitution, let us examine the war powers actually granted to the President in the Constitution. These powers at best can be described as sparse and cryptic. Article II, section 1 states: "The executive power shall be vested in a president of the United States of America."

Article II, section 2, states, without further elaboration:

"The President shall be Commander in Chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States."

It would be useful at this point to take a look at the "legislative history" of the Commander in Chief concept as it is used in the Constitution. There was no doubt in the minds of the drafters of the Constitution about who would be the first President of the United States. George Washington was elected unanimously to the office less than two years after completion of the Constitutional Convention. Twelve years earlier, in June 1775, the Continental Congress had appointed George Washington to be "Commander in Chief" of the colonial forces. Washington held this post as Commander in Chief until his formal resignation and return of his commission in December 1783. He was the only Commander in Chief the United States had ever had when in 1787 the Constitution was drafted and the phrase "Commander in Chief" was written into it.

Clearly, the drafters of the Constitution had the experience of the Continental Congress with George Washington in mind when they designated the President as "Commander in Chief" in article II, section 2. Thus, the "legislative history" of the constitutional concept of a Commander in Chief was the relationship of George Washington as colonial Commander in Chief to the Continental Congress.

That relationship is clearly defined in the Commission as Commander in Chief which was given to Washington on June 19, 1775, and which was formally returned by him to the Continental Congress on December 23, 1783.

I would like to quote the final clause of this Commander in Chief's Commission, because it establishes the relationship of the Congress to the Commander in Chief in unmistakable terms:

"And you are to regulate your conduct in every respect by the rules and discipline of war (as herewith given you) and punctually to observe and follow such orders and directions from time to time as you shall receive from this or a future Congress of the said United Colonies or a committee of Congress for that purpose appointed."

THE PRESIDENT'S EXPANDING POWERS

I have dwelt at some length on this question of the Congress' war powers, and the relationship of those powers to the President's function as Commander in Chief, because critics of the War Powers Act so often choose to ignore what the Constitution says. Moreover, out of the sparse and cryptic language of article II, section 2 of the Constitution there has grown up an extraordinarily overblown doctrine of so-called Commander in Chief powers. The outer limits of this doctrine as cited as a barrier against even the exercise by Congress of its own clearly enumerated war powers. For instance, in his testimony before the Senate Foreign Relations Committee, Secretary of State Rogers approvingly quoted the following assertion of the Truman Administration: ". . . the President, as Commander in Chief of the Armed Forces of the United States, has full control over the use thereof."

To this ever expanding doctrine of exclusive Commander in Chief powers, Secretary Rogers added a new dimension of his own, in telling the Foreign Relations Committee:

"I would think that his powers as Commander in Chief would authorize him to take whatever action he felt necessary to try to protect the safety and the lives of our prisoners of war."

Presumably this could include authority on his own to invade North Vietnam, Laos, Cambodia and perhaps even the People's Republic of China. I doubt that there are many Americans who would go this far even to agree with Secretary Rogers.

HISTORICAL AND CONSTITUTIONAL PERSPECTIVES OF THE WAR POWERS ACT

The constitutional aspects of the War Powers Act were investigated in a most authoritative way in the hearings conducted by the Foreign Relations Committee. The record of those hearings is already coming to be recognized as the most comprehensive and authoritative examination in existence of the constitutional war powers issue. I command the hearings to all interested in this subject.

The question has been asked, quite rightly, why—after all these years—do we need a war powers bill now? It is clear that the Administration opposes any legislation in the war powers field and is apparently quite happy with the present situation. Secretary Rogers said that the War Powers Act: ". . . reflects an approach not consistent with our constitutional tradition." The Secretary further felt that the "respective roles and capabilities" of the Executive and the Congress should be "left to the political process."

It is the failure of this approach which necessitates a war powers bill. The golden days of Senator Vandenburg have been obliterated by the Vietnam war.

The constitutional imbalance, which has reached such dangerous proportions and which is the prime factor behind this bill, is a recent development growing out of the last few decades. The United States emerged from World War II as the dominant world power—a role alien to all our previous national experience. The unique challenges arising from this new role were such that we slipped into a practice which ran counter to the genius of our Constitution and the underlying structure of our political system. This practice has concentrated the essential war power in the institution of the Presidency and left

Congress little more than an appropriations and confirmatory role. It has proved to be a most costly failure which has dangerously strained the fabric of our whole society.

Throughout our history it has been recognized that the essential conduct of foreign policy was a prerogative of the President. But until the United States emerged from World War II as the dominant power of the world, the President's foreign policy portfolio was a relatively modest one, evolving only slowly in our history from the traditions established by President George Washington's admonition to beware of "foreign entanglements."

The Founding Fathers were deeply distrustful of "standing armies. At the times of the ratification of the Constitution, the United States Army consisted of a total of 719 officers and men. On the eve of the Civil War it was only 28,000 and in 1890 it was only 38,000. Even in 1915, the Army numbered less than 175,000. However, since 1951 the size of our "standing" armed forces rarely has dipped below 3,000,000 men. These forces under the President's command are equipped with nuclear weapons and submarines, intercontinental missiles, supersonic jets and they are deployed all over the world. A budget of more than $87 billion has been requested to support these forces in FY 1974.

It is the convergence of the President's role of conducting the foreign policy with his role as Commander in Chief of the most potent "standing army" the world has ever seen that has tilted the relationship between the President and Congress so far out of balance in the war powers field. It is this convergence which has created the new situation requiring countervailing action by Congress to restore the Constitutional balance.

EXPLANATION OF THE BILL

It is important to note that the provisions of this bill govern the use of the armed forces: *"In the absence of a declaration of war by the Congress."* In this bill we are dealing with *undeclared wars*—wars which have come to be called Presidential wars because the constitutional process of obtaining Congressional authorization has been short-circuited.

Undeclared wars are not a new phenomenon in our history. Our armed forces have been introduced in hostilities many more times in the absence of a declaration of war than have been pursuant to a declaration of war. The key problem for the Congress and our Nation, particularly in contemporary circumstances, is undeclared war, or Presidential war, as epitomized by Vietnam. It is to this urgent, contemporary problem that S. 440 addresses itself.

Section 1 of the bill contains its short title—the "War Powers Act."

Section 2 is a self-explanatory short statement of "Purposes and Policy," stressing its intention to ". . . insure that the collective judgment of both the Congress and the President will apply to the introduction of the Armed Forces of the United States in hostilities, or in situations where imminent involvement in hostilities in clearly indicated by the circumstances . . ."

Section 3 (along with section 5) is the core of the bill. Section 3 consists of four clauses which define the conditions or circumstances under which, in the absence of a Congressional declaration of war, the Armed Forces of the United States "may be introduced in hostilities, or in situations where imminent involvement in hostilities is clearly indicated by the circumstances."

The first three categories are codifications of the emergency powers of the President, as intended by the Founding Fathers and as confirmed by subsequent historical practice and judicial precedent. Thus, subsections (1), (2), and (3) of section 3 delineate by statute the implied power of the President in his concurrent role as Commander in Chief.

The authority of Congress to make this statutory delineation is contained in the enumerated war powers of Congress in article I, section 8 of the Constitution, which I cited above. Most importantly, the authority of Congress to make this statutory delineation is contained in the final clause of article I, section 8, granting to Congress the authority:

"To 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 officer thereof."

REPELLING ARMED ATTACK ON THE UNITED STATES

Subsection (1) of section 3 confirms the emergency authority of the Commander in Chief to: "repel an armed attack upon the United States, its territories and possessions; to take necessary and appropriate retaliatory actions in the event of such an attack; and to forestall the direct and imminent threat of such an attack;"

It should be noted that this subsection authorizes the President not only to repel an attack upon the United States and to retaliate but also *"to forestall the direct and imminent threat of such an attack."* The inclusion of these words grants a crucial element of judgment and discretion to the President. While it was thought by some that the power to "forestall" was inherent in the power to "repel," it was decided to expressly include the forestalling power to avoid any ambiguity domestically or in the eyes of any potential aggressor. Its inclusion belies the allegation of critics that the bill is "inflexible."

Nonetheless, while the President clearly must apply his discretion and judgment to the implementation of this authority, it is by no means a "blank check." For the President to take forestalling action, the threat of attack must be "direct and imminent." Moreover, he must justify his judgment on this point under the mandatory reporting provisions contained in section 4. But, and this is the point to be emphasized, the judgment is his.

REPELLING ATTACK ON U.S. ARMED FORCES

Subsection (2) further defines the emergency power of the President: "to repel an armed attack against the Armed Forces of the United States located outside of the United States, its territories and possessions, and to forestall the direct and imminent threat of such an attack;"

The authority contained in this subsection recognizes the right, and duty, of the Commander in Chief to protect his troops. Like subsection (1) it includes the authority to forestall a direct and imminent threat of attack, as well as to repel an attack. Clearly, just as the President would not have to wait until the bombs actually started landing on our soil to act against an attack upon the United States, similarly our forces would not have to wait until enemy bullets and mortars hit before they could react.

Nonetheless, it will be noted that the power to repel attacks upon the armed forces located outside the United States is less comprehensive in one respect than the power to repel attacks upon the United States itself. While the subsection contains the authority to repel and forestall, it does not include the separate and broader power to retaliate.

There are good reasons for this. First, it should be emphasized that the President could of course take retaliatory action if an attack upon our armed forces abroad was integral to an attack upon the United States. And he could do this respecting our NATO forces as part of his forestalling powers relating to an attack upon the United States. Nonetheless, the wording of this provision is meant to retain safeguards against wider embroilment resulting from incidental attacks upon U.S. forces, or attacks resulting from provocative actions by local U.S. commanders. Thus, for instance, an attack upon a Marine Guard at our Embassy in Nepal would not trigger an authority to retaliate by seizing the country. Likewise, for instance, a sneak attack on security guards at one of our airbases in Thailand would not trigger an authority to retaliate by launching search and destroy missions.

PROTECTING U.S. CITIZENS ABROAD

Subsection (3) codifies that the authority of the President to rescue United States citizens and nationals abroad and on the high seas. By defining the circumstance and procedures to be followed, this subsection is a conscious movement away from some of the excesses of nineteenth century gunboat diplomacy. The language of this subsection is as follows: "to protect while evacuating citizens and nationals of the United States, as rapidly as possible, from (A) any situation on the high seas involving a direct and imminent threat to the lives of such citizens and nationals, or (B) any country in which such citizens and nationals are present with the express or tacit consent of the government of such country and are being subjected to a direct and imminent threat to their lives, either sponsored by such government or beyond the power of such government to control; but the President shall make every effort to terminate such a threat without using the Armed Forces of the United States, and shall, where possible, obtain the consent of the government of such country before using the Armed Forces of the United States to protect citizens and nationals of the United States being evacuated from such country;"

NATIONAL COMMITMENTS

Subsection (4) is perhaps the most significant part of the bill. For, while subsections (1), (2), and (3) codify emergency powers which are inherent in the independent constitutional authority of the President as Commander in Chief, section 3(4) deals with the delegation by the Congress of additional authorities which would accrue to the President as a result of statutory action by the Congress and which he does not, or would not, possess in the absence of such statutory action.

The language of section 3(4) reads as follows: "pursuant to specific statutory authorization, but authority to introduce the Armed Forces of the United States in hostilities or in any such situation shall not be inferred (A) from any provision of law hereafter enacted, including any provision contained in any appropriation Act, unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act, or (B) from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act. Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such Armed Forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities. No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation, within the meaning of this clause (4); and no provision of law in force at the time of the enactment of this

Act shall be so construed unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in any such situation."

The key phrase in this subsection is contained in its initial five words: "pursuant to specific statutory authorization." The rest of the subsection is an explanation, elaboration and definition of the meaning (for the purposes of the bill) of the words "pursuant to specific statutory authorization." In an important sense, this subsection gives legislative effect to S. Res. 85, the National Commitments Resolution adopted by the Senate on June 25, 1969 by a vote of 70 to 16 which states: "that a national commitment by the United States to a foreign power necessarily and exclusively results from affirmative action taken by the executive and legislative branches of the United States Government through means of a treaty, convention, or other legislative instrumentality specifically intended to give effect to such a commitment."

The significance of subsection (4) is multiple. First, it establishes a mechanism by which the President and the Congress *together* can act to meet any contingency which the Nation might face.

There is no way to legislate national wisdom but subsection (4) does provide important protection to the American people by requiring that the Congress as well as the President must participate in the critical decision to authorize the use of the Armed Forces of the United States in hostilities, other than hostilities arising from such "defensive" emergencies as an attack upon the United States, our armed forces abroad, or upon U.S. citizens abroad in defined circumstances. It provides as much flexibility in the national security field as the wit and ingenuity of the President and Congress may be jointly capable of constructing.

Subsection (4) places a big responsibility upon the President as well as the Congress. The initiative in generating specific statutory authorization to meet contingencies and developing crises may in most instances come from the President. As the conductor of foreign policy, with all the information and intelligence resources at his command, it will be incumbent upon him to present the case to the Congress and the Nation.

There is a clear precedent for the action anticipated in subsection (4)—the "area resolution." Over the past two decades, the Congress and the President have had considerable experience with area resolutions—some of it good and some quite unsatisfactory. In its mark-up of the War Powers Act, the Foreign Relations Committee considered this experience carefully in approving the language of subsection (4). The intent of the final clause of subsection (4) is to uphold the validity of three area resolutions currently on the statute books. These are: the "Formosa Resolution" (H.J. Res. 159 of January 29, 1955); the "Middle East Resolution" (H.J. Res. 117 of March 9, 1957, as amended); and the "Cuban Resolution" (S.J. Res. 230 of October 3, 1962).

The best known—and most controversial—of the area resolutions, the Tonkin Gulf Resolution (H.J. Res. 1145 of August 10, 1964), was repealed as of January 12, 1971.

The question may be asked: What is to guard against the passage of another resolution of the Tonkin Gulf type?

The answer is that any future area resolutions, to qualify under this bill as a grant of authority to introduce the armed forces in hostilities or in situations where imminent involvement in hostilities is clearly indicated by the circumstances, must meet certain carefully drawn criteria—as spelled out in the language of subsection (4). The pertinent language is

". . . unless such provision specifically authorizes the introduction of such Armed Forces in hostilities or in such situation and specifically exempts the introduction of such Armed Forces from compliance with the provisions of this Act . . ."

In other words, any future area resolution must be a specific grant of authority which would contain a direct reference to the bill now under discussion. The phrase "exempts . . . from compliance with the provisions of this Act" is included to insure that the precise intention of the grant of authority is clearly established with reference to the War Powers Act. The exemption could of course establish other procedures—or it could reaffirm all, or part, of the provisions of S. 440. The bill thus allows for as much flexibility with respect to handling of any developing crisis or sudden emergency as the Congress and the President may jointly deem prudent.

Clearly, both the President and the Congress will have much to do, following the passage of this bill. First, Congress will have to review closely the three area resolutions which are left standing by the provision of subsection (4).

As a first step in the mental attitude of partnership which will be brought about by this bill, the Administration should review the world situation carefully and take the initiative in coming to the Congress with recommendations respecting the existing area resolutions—as well as recommendations for any new ones which the President may feel are needed for our national security.

As regards the three existing area resolutions which continue to qualify under subsection (4), the Nixon Administration, in another context, has said it did not rely on the resolutions and has taken the following position: ". . . as a functional matter, [the area] Resolutions have no continuing signifiance in the foreign policy formulation process, and it is for Congress to determine whether they should be terminated or simply allowed to fade away."

With the new situation that would allow the adoption of the War Powers Act, a new approach would be required of the Executive.

At this point, I should draw attention to the fact that requests for new authority, pursuant to subsection (4), do *not* qualify for the "Congressional Priority Provisions" contained in section 7. However, it is contemplated that Congressional consideration of new subsection (4) grants of authority can generally be undertaken in the absence of an imminent threat or emergency in a deliberative way, including Committee hearings. The point here is to obviate a repetition of the unfortunate experience of the Congress with the Tonkin Gulf Resolution, which it was later realized went through the Congress without enough inquiry in the respective Committees and in the related floor debate, for it was confirmatory not plenary; and more a gesture of solidarity with the President than a decision on war by the Congress.

RENEWING CLOSE CONSULTATION

Not only must the Congress be prepared to play its role in the war powers area with wisdom and foresight—but with great responsibility.

And, an important new responsibility is also placed on the Executive branch. Last minute "crunches" can be avoided by a renewal of the earlier practice of continuing close consultation between the Executive branch and the relevant committees of Congress. The Executive will be obliged to make the Congress, again, its partner in shaping the broad, basic national security and foreign policy of the Nation well in advance of the exercise of the war power.

CONGRESSIONAL AUTHORITY AND PRESIDENTIAL FLEXIBILITY

Some have argued that seeking Congressional authority to use the armed forces with respect to developing crisis situations would deprive the President of flexibility—or introduce ambiguity—in the conduct of foreign policy during crisis situations. It is said that the President would have to "telegraph his punches" and thus remove surprise from his diplomatic arsenal.

This charge does not stand up under scrutiny. First, the President would not be compelled or obliged to use the armed forces just because the Congress granted him the authority to do so. This could be made clear to the entire world through the public media facilities at the President's command, as well as through the diplomatic channels at his command.

Moreover, it is just not true, as some critics of the bill have alleged, that the passage of this legislation would inhibit the President's capacity to move elements of the fleet anywhere on the high seas. To give a specific example, there is nothing in the bill which would have affected the President's decision to move elements of the Sixth Fleet into the eastern Mediterranean during the 1971 Jordanian crisis. The right of United States naval forces to operate freely anywhere in international waters would not be abridged by this bill. Moreover, the capacity of our armed forces to rescue U.S. citizens stranded or threatened on the high seas would not be restricted by the bill.

An important provision of subsection (4) is contained in its first qualifying clause (A). As stated in the Committee Report, the purpose of this clause is to overrule the Orlando vs. Laird decision of the Second Circuit Court, which held that passage of defense appropriations bills, and extension of the Selective Service Act, constituted implied Congressional authorization for the Vietnam war.

TREATIES

One of the most far-reaching aspects of subsection (4) is its provisions respecting treaties. Throughout the past two decades there has been continuing confusion, debate and controversy respecting a crucial phrase that is standard in our Nation's collective and bilateral security treaties; that phrase is that implementation of such treaties, as to involvement of U.S. forces in hostilities, will be in accordance with the "constitutional processes" of the signatories.

In an important sense, subsection (4) defines "constitutional processes" for the first time, as it relates to treaty implementation by the Untied States. The definition of "constitutional processes" respecting treaty implementation is both negative and positive.

Subsection (4) makes a finding in law that no U.S. security treaties can be considered self-executing in their own terms. With respect to existing treaties the bill states:

"No treaty in force at the time of the enactment of this Act shall be construed as specific statutory authorization for, or a specific exemption permitting, the introduction of the Armed Forces of the United States in hostilities or in any such situation . . ."

Additionally, the subsection states that authorization for introducing the armed forces in hostilities shall not be inferred: ". . . from any treaty hereafter ratified unless such treaty is implemented by legislation specifically authorizing the introduction of the Armed Forces of the United States in hostilities or in such situation and specifically exempting the introduction of such Armed Forces from compliance with the provisions of this Act."

It is important to bear in mind that these negative findings with respect to treaties must be considered in conjunction with the authority of the President in subsections (1), (2), and (3). The authority contained in those subsections is in no way abridged or diminished by the negative finding on treaties *per se*.

Moreover, as the language of the subsection makes clear, the bill envisages the adoption of treaty implementation legislation, as deemed appropriate and desirably by the Congress and the President. Such implementing legislation would constitute the authority "pursuant to specific statutory authorization" called for by subsection (4).

There are two principal reasons for including these provisions with respect to our collective and bilateral security treaties. First, is to ensure that both Houses of Congress must be affirmatively involved in any decision of the United States to engage in hostilities pursuant to a treaty. Treaties are ratified by and with the consent of the Senate. But the war powers of Congress in article I, section 8 of the Constitution are vested in both Houses of Congress and not in the Senate (and President) alone. A decision to make war must be a national decision. Consequently, to be truly a national decision, and, most importantly, to be consonant with the Constitution, it must be a decision involving the President and both Houses of Congress.

Second, the negative findings with respect to treaties is important so as to remove the possibility of a future issue of bitter contention such as arose with respect to the SEATO Treaty and the Vietnam war.

Treaties are not self-executing. They do not contain authority within the meaning of section 3(4) to go to war. Thus, by requiring statutory action, in the form of implementing legislation or an area resolution of the familiar type, the War Powers Act performs the important function of defining that elusive and controversial phrase—"constitutional processes"—which is contained in our security treaties.

Subsection (4) contains one additional important provision. It states:

"Specific statutory authorization is required for the assignment of members of the Armed Forces of the United States to command, coordinate, participate in the movement of, or accompany the regular or irregular military forces of any foreign country or government when such forces are engaged, or there exists an imminent threat that such forces will become engaged, in hostilities."

As explained in the Committee report, the purpose of this provision is "to prevent secret, unauthorized military support activities." Senators conversant with the major debates of the past five years will recognize that this provision is designed to prevent a repetition of many of the most controversial and regrettable actions of the past two administrations in Indochina. For, we know that the ever deepening ground combat involvement of the United States in South Vietnam began with the assignment of U.S. "advisors" to accompany South Vietnamese units on combat patrols. Soon, such U.S. advisors were authorized to shoot, first in self-defense, and later, without restriction. And, in Laos, secretly and without Congressional authorization, U.S. "advisors"—frequently members of the Armed Forces on "loan" to the CIA—were deeply engaged in the war in northern Laos.

CONGRESSIONAL AUTHORITY FOR PRESIDENTIAL WARS

The approach taken in the War Powers Act places the burden on the Executive to come to Congress for specific authority. The sponsors of the bill believe that this provision will provide an important national safeguard against creeping involvement in future Vietnam-style wars. The danger of U.S. involvement in wars over the next decade at least would appear to be greater as regards small, "limited" brushfire, undeclared wars of obscure beginnings—such as the ones which have wracked Southeast Asia for the past several decades—than the danger of a big conventional war.

The State Department has raised the charge that S. 440 would require the disbandment of NATO's unified command. This is a faulty and distorted reading of the legislation. It is certainly a reading which is in direct contradiction of the legislative purpose of the authors and sponsors of the bill, and in normal operation it contradicts the plain text for the bill, as stated in section 9 which reads as follows:

"Nothing in section 3(4) of this Act shall be construed to require any further specific statutory authorization to permit members of the Armed Forces of the United States to participate jointly with members of the armed forces of one or more foreign countries in the headquarters operations of high-level military commands which were established prior to the date of enactment of this Act and pursuant to the United Nations Charter or any treaty ratified by the United States prior to such date."

Section 4 of S. 440 requires the President to report "promptly" in writing to both Houses of Congress any use of the Armed Forces covered by section 3 of the bill. The provisions of this section are clear and simple. In his report to Congress, the President is required to include "a full account of the circumstances under which . . . [he has acted] . . . the estimated scope of such hostilities or situation, and the consistency of the introduction of such forces in such hostilities or situation with the provisions of section 3 of this Act."

In addition, the President is required to make periodic, additional reports so long as the Armed Forces are engaged in circumstances governed by section 3. Such additional reports shall be submitted at least every six months.

It will be noted that the President is required to report "promptly." This word has been used in preference to "immediately" or a possible specific time limit such as 24 hours. The important thing is that the report must be prompt but it must also be comprehensive. It might take a few days for the Executive branch to assemble all the facts and reports from the field, as well as to assemble the various intelligence reports and, most importantly, to prepare an informed judgment on the "estimated scope of such hostilities."

What we are looking for here is a full and accurate report of events, combined with an authoritative statement by the President of his judgment about the direction in which the situation is likely to develop. The Congress can act intelligently and responsibly only when it has the necessary information at hand. We cannot allow a repetition of the experience we had with respect to the Tonkin Gulf Resolution, where we later learned that we were provided with incomplete, even misleading and inaccurate, reports of what had actually occurred.

It is important to bear in mind that the reporting requirements of the bill apply independently of the provisions of sections 5, 6, and 7. There are several reasons for this, despite the fact that there inevitably will be a close *de facto* operational connection between the President's report under Section 4 and the subsequent actions of Congress under sections 5, 6, and 7.

First, it should be clear that the President's mandatory report is not to be considered a request for an extension of authority as might be granted subsequently under section 5. Such a request can only be introduced by a member of Congress.

Second, it is entirely possible that even a majority of the actions taken under the President's direction pursuant to section 3 will be shortlived, one-shot actions completed well within the thirty-day time period, and thus requiring no extension in time of the authority spelled out in section 3.

30-DAY AUTHORIZATION PERIOD

The Committee Report characterizes section 5 as "the heart and core of the bill." Taken in conjunction with section 3, it is just that. It is the crucial embodiment of Congressional authority in the war powers field, based on the mandate of Congress enumerated so comprehensively in article I, section 8 of the Constitution. Section 5 rests squarely and securely on the words, meaning and intent of section 8, article I and thus represents, in an historic sense, a restoration of the constitutional balance which has been distorted by the practice of recent decades.

Section 5 provides that actions taken under the provisions of section 3: "shall not be sustained beyond thirty days from the date of the introduction of such Armed Forces in hostilities or in any such situation unless (1) the President determines and certifies to the Congress in writing that unavoidable military necessity respecting the safety of Armed Forces of the United States engaged pursuant to section 3(1) or 3(2) of this Act requires the continued use of such Armed Forces in the course of bringing about a prompt disengagement from such hostilities; or (2) Congress is physically unable to meet as a result of an armed attack upon the United States; or (3) the continued use of such Armed Forces in such hostilities or in such situation has been authorized in specific legislation enacted for that purpose by the Congress and pursuant to the provisions thereof."

Section 5 resolves the modern dilemma of reconciling the need of speedy and emergency action by the President in this age of instantaneous communications and of intercontinental ballistic missiles with the urgent necessity for Congress to exercise its constitutional mandate and duty with respect to the great questions of war and peace.

The choice of thirty days, in a sense, is arbitrary. However, it clearly appears to be an optimal length of time with respect to balancing two vital considerations. First, it is an important objective of this bill to bring the Congress, in the exercise of its constitutional war powers, into any situation involving U.S. forces in hostilities at an early enough moment so that its (Congress') actions can be meaningful and decisive in terms of a national decision respecting the carrying on of war. Second, recognizing the need for emergency action, and the crucial need of Congress to act with sufficient deliberation and to act on the basis of full information, thirty days is a time period which strikes a balance enabling Congress to act meaningfully as well as independently.

It should be noted further, that the thirty-day provision can be extended as Congress sees fit—or it can be foreshortened under section 6. The way the bill is constructed, however, the burden for obtaining an extension under section 5 rests on the President. He must obtain specific, affirmative, statutory action by the Congress in this respect. On the other hand, the burden for any effort to foreshorten the thirty-day period rests with the Congress, which would have to pass an act or joint resolution to do so. Any such measures to foreshorten the thirty-day period would have to reckon with the possibility of a Presidential veto, as his signature is required, unless there is sufficient Congressional support to override a veto with a two-thirds majority.

The issue has been raised, quite properly, as to what would happen if our forces were still engaged in hot combat at the end of the thirtieth day—and there had been no Congressional extension of the thirty-day time limit.

The answer is that, as specified by clause (1), the President, in his capacity as Commander in Chief and in accordance with his duty as Commander in Chief to protect his troops, would not be required or expected to order the troops to lay down their arms.

The President would, however, be under statutory compulsion to begin to disengage

in full good faith to meet the thirty-day time limit. He would be under the injunction placed upon him by the Constitution, which requires of the President that: "he shall take care that the laws be faithfully executed."

The thirty-day provision contained in section 5 thus assumes that the President will act according to law. No other assumption is possible unless we are to discard our whole constitutional system. So long as the President is acting in good faith in acting to disengage, there would be no constitutional confrontation over fighting by our forces after the thirty-day period (or any other period established by statute.)

Section 6 of the bill establishes that Congress may, through statutory action, foreshorten the thirty-day provisions of section 5. Clearly, such action could only happen in most extraordinary circumstances wherein a President might act in blatant opposition to the national will or the national interest.

ANTIFILIBUSTER SAFEGUARD

Section 7 is an important provision of the bill which establishes strict procedures to assure priority Congressional action to extend, or foreshorten, the thirty-day time period as provided in sections 5 and 6. The provisions of section 7 are included to remove the possibility that action in this regard could be prevented or delayed through filibuster or committee pigeon-holing.

It is important to note again that requests for authority under procedures established in section 7. In other words, a Presidential request for an area resolution of the type contemplated in section 3, subsection (4) would not trigger the provisions of section 7. Such requests would be considered by Congress under normal procedures. Section 7 would apply only with respect to measures which would extend (or foreshorten) measures already previously made statutory under section 3.

To give an example, the Tonkin Gulf Resolution could not have been shoved through the Congress under the priority consideration procedures of section 7. On the other hand, hypothetically, if United States Armed Forces were fighting in Mexico, pursuant to specific statutory authorization under section 3, to resist an invasion by the Soviet Union or Cuba, a resolution to extend the thirty-day authorization period would qualify for the priority consideration procedures, if sponsored or cosponsored by one-third of the membership of the House in which it was introduced.

Finally, it should be noted that an important measure of flexibility has nonetheless been retained in section 7. Its strict, almost instant, provisions can be modified in any particular instance by a majority vote of the members of the House in which it is being considered. This is the meaning of the phrase "unless such House shall otherwise determine by yeas or nays." The significance of this "escape clause" is that in situations which clearly do not constitute a national emergency, the Congress can proceed as it may decide to, upon majority vote.

Section 8 contains a standard separability clause which simply provides that if any provision of the bill should be held invalid, this would not effect the validity of the rest of the bill.

Section 9 provides, in part, that:

"This Act shall take effect on the date of its enactment but shall not apply to hostilities in which the Armed Forces of the United States are involved on the effective date of this Act."

The bill, at the time of introduction, was not intended to apply retroactively to the Vietnam war. However, after the total withdrawal of U.S. Armed Forces from Vietnam on March 28, as provided by the "Agreement on Ending the War and Restoring the Peace in Vietnam," signed in Paris on January 27, U.S. forces will no longer be involved in any hostilities in North or South Vietnam, and the provisions of the War Powers Act will be applicable to any possible resurgence of that tragic conflict. We also now have a cease-fire in Laos, and, when the initial cease-fire period of 60 days is complete and American involvement is terminated, the provisions of the War Powers Act shall apply to that country also. A Cambodian cease-fire is also expected shortly. Hopefully, there will be an effective cease-fire throughout Indochina by the time the War Powers Act is enacted and the War Powers Act would apply to the reintroduction of forces throughout Indochina. The principal sponsors of S. 440, including myself, Senator Eagleton and Senator Stennis are united in this interpretation.

CONCLUSION

The real question—and the State Department has posed it—is, independently of Congress, "to what extent the President has the power to use the armed forces by virture of his role as Chief Executive, as Commander in Chief, and in the conduct of foreign relations." In practice, the question has been answered over the past several decades, in effect, by no limits being placed on this alleged power of the Commander in Chief so that the President has been able to commit the people to extended war. In effect all he has asked from Congress is that it provide the money and the men. But this was almost an imperial doctrine, not that any American President so intends it, but he is driven to it by some awful logic if this claim of power by the Executive is acquiesced in by Congress and the Nation as valid under the Constitution. It is not valid if the Congress chooses to exercise its power under the "necessary and proper" clause to define by law the President's and its own role in making war. And when the President's authority is so defined, as it will be if the War Powers Act becomes law, then the issue of authority is determined in an authoritative way, and, I have little doubt, will be carried out to the best of his ability in good faith by any American President.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

PROGRAM

Mr. ROBERT C. BYRD. Mr. President, for Tuesday next the program is as follows:

The Senate will convene at 12 o'clock meridian. After the two leaders, or their designees, have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Senators DOMINICK, GRIFFIN, and ROBERT C. BYRD.

After the recognition of Senators under the orders previously entered and aforementioned, the Senate will transact routine morning business for not to exceed 15 minutes with statements limited therein to 3 minutes; at the conclusion of which the Senate will resume its consideration of the unfinished business, Calendar Order No. 92, S. 352, a bill to amend title 13, United States Code, to establish within the Bureau of the Census a Voter Registration Administration for the purpose of administering a voter registration program through the Postal Service.

Yea-and-nay votes could occur.

Mr. President, I hope that the delectable, delightful, and beautiful weather which we see through the doors will continue throughout the weekend and that the Members of the Senate, members of the fourth estate, members of the gallery, and all citizens in the area may enjoy a delightful, sunny Saturday and Sunday. However, I add the postscript that I am not a very good weather prognosticator.

ADJOURNMENT TO APRIL 10, 1973

Mr. ROBERT C. BYRD. Mr. President, if there be no further business to come before the Senate, I move that the Senate stand in adjournment until 12 o'clock meridian Tuesday next.

The motion was agreed to; and at 11:45 a.m. the Senate adjourned until Tuesday, April 10, 1973, at 12 o'clock meridian.

NOMINATIONS

Executive nominations received by the Senate, April 6, 1973:

U.S. ARMS CONTROL AND DISARMAMENT AGENCY

Fred Charles Ikle, of California, to be Director of the United States Arms Control and Disarmament Agency, vice Gerard C. Smith.

CONFIRMATIONS

Executive nominations confirmed by the Senate April 6, 1973:

DEPARTMENT OF TRANSPORTATION

Robert Timothy Monagan, Jr., of California, to be an Assistant Secretary of Transportation.

INTERSTATE COMMERCE COMMERCE

Alfred Towson MacFarland, of Tennessee, to be an Interstate Commerce Commissioner for the term of 7 years expiring December 31, 1978.

Willard Deason, of Texas, to be an Interstate Commerce Commissioner for a term of 7 years expiring December 31, 1979.

A. Daniel O'Neal, Jr., of Washington, to be an Interstate Commerce Commissioner for a term of 7 years expiring December 31, 1979.

DEPARTMENT OF LABOR

Paul J. Fasser, Jr., of Virginia, to be an Assistant Secretary of Labor.

William Jeffrey Kilberg, of New York, to be Solicitor for the Department of Labor.

FARM CREDIT ADMINISTRATION

Alfred Underdahl, of North Dakota, to be a member of the Federal Farm Credit Board, Farm Credit Administration, for a term expiring March 31, 1979.

DEPARTMENT OF COMMERCE

Henry B. Turner, of California, to be an Assistant Secretary of Commerce.

C. Langhorne Washburn, of Virginia, to be Assistant Secretary of Commerce for Tourism.

ACTION

Michael P. Balzano, Jr., of Virginia, to be Director of ACTION.

(The above nominations were approved subject to the nominees' commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.)

U.S. AIR FORCE

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35 and 837, title 10, United States Code:

To be major general

Brig. Gen. William H. Bauer, [redacted] FV, Air Force Reserve.

Brig. Gen. Stuart G. Haynsworth, [redacted] FV, Air Force Reserve.

Brig. Gen. Howard T. Markey, [redacted] FV, Air Force Reserve.

Brig. Gen. Alfred J. Wood, Jr., [redacted] FV, Air Force Reserve.

To be brigadier general

Col. William C. Banton II, [redacted] FV, Air Force Reserve.

Col. Francis N. Clemens, [redacted] FV, Air Force Reserve.

Col. Michael Collins, [redacted] FV, Air Force Reserve.

Col. Bruce H. Cooke, [redacted] FV, Air Force Reserve.

Col. Roger M. Dreyer, [redacted] FV, Air Force Reserve.

Col. John W. Huston, [redacted] FV, Air Force Reserve.

Col. Cecil T. Jenkins, [redacted] FV, Air Force Reserve.

Col. Stephen T. Keefe, Jr., [redacted] FV, Air Force Reserve.

Col. Leonard Marks, Jr., [redacted] FV, Air Force Reserve.

Col. Roy M. Marshall, [redacted] FV, Air Force Reserve.

Col. Robert M. Martin, Jr., [redacted] FV, Air Force Reserve.

Col. Sidney S. Novaresi, [redacted] FV, Air Force Reserve.

Col. Pat Sheehan, [redacted] FV, Air Force Reserve.

Col. Ted W. Sorensen, [redacted] FV, Air Force Reserve.

Col. Edwin F. Wenglar, [redacted] FV, Air Force Reserve.

The following officers for appointment in the Reserve of the Air Force to the grade indicated, under the provisions of chapters 35, 831, and 837, title 10, United States Code:

To be major general

Brig. Gen. Gordon L. Doolittle, [redacted] FG, Air National Guard.

Brig. Gen. Raymond L. George, [redacted] FG, Air National Guard.

Brig. Gen. George M. McWilliams, [redacted] FG, Air National Guard.

Brig. Gen. Robert S. Peterson, [redacted] FG, Air National Guard.

To be brigadier general

Col. John C. Campbell, Jr., [redacted] FG, Air National Guard.

Col. Winett A. Coomer, [redacted] FG, Air National Guard.

Col. William D. Flaskamp, [redacted] FG, Air National Guard.

Col. Leo C. Goodrich, [redacted] FG, Air National Guard.

Col. Cecil I. Grimes, [redacted] FG, Air National Guard.

Col. Ronald S. Huey, [redacted] FG, Air National Guard.

Col. Paul J. Hughes, [redacted] FG, Air National Guard.

Col. Grover J. Isbell, [redacted] FG, Air National Guard.

Col. Billy M. Jones, [redacted] FG, Air National Guard.

Col. Raymond A. Matera, [redacted] FG, Air National Guard.

Col. Patrick E. O'Grady, [redacted] FG, Air National Guard.

The following officer under the provisions of title 10, United States Code, section 8066, to be assigned to a position of importance and responsibility designated by the President under subsection (a) of section 8066, in grade as follows:

To be lieutenant general

Maj. Gen. Carlos M. Talbott, [redacted] FR (major general, Regular Air Force) U.S. Air Force.

Col. John P. Flynn, [redacted] FR (colonel, Regular Air Force) U.S. Air Force, for appointment to the temporary grade of brigadier general in the U.S. Air Force to be retroactive to the effective date of May 1, 1971.

Col. David W. Winn, [redacted] FR, (colonel, Regular Air Force) U.S. Air Force, for appointment to the temporary grade of brigadier general in the U.S. Air Force.

U.S. ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be general

Gen. Lewis Blaine Hershey, [redacted], Army of the United States (lieutenant colonel, U.S. Army).

U.S. NAVY

Rear Adm. William R. St. George, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Walter D. Gaddis, U.S. Navy, having been designated for commands and other duties of great importance and responsibility determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Rear Adm. Robert B. Baldwin, U.S. Navy, having been designated for commands and other duties determined by the President to be within the contemplation of title 10, United States Code, section 5231, for appointment to the grade of vice admiral while so serving.

Vice Adm. John M. Lee, U.S. Navy, for appointment to the grade of vice admiral, when retired, pursuant to the provisions of title 10, United States Code, section 5233.

The following named captains of the line of the Navy for temporary promotion to the grade of rear admiral, subject to qualifications therefor as provided by law:

Lando W. Zech, Jr.	John B. Berude
Reuben G. Rogerson	Thomas B. Russell, Jr.
Cyril T. Faulders, Jr.	Elmer T. Westfall
Robert P. McKenzie	Paul C. Boyd
Henry P. Glindeman, Jr.	Charles S. Williams, Jr.
James R. Sanderson	Edward P. Travers
Gordon R. Nagler	William H. Ellis
Robert F. Schoultz	Ralph H. Carnahan
Robert H. Blount	James B. Stockdale
Harold G. Rich	William J. Crowe, Jr.
George P. March	Robert S. Smith
Jeremiah A. Denton, Jr.	Richard A. Paddock
	Roy F. Hoffmann
Donald P. Harvey	William H. Harris
John D. Johnson, Jr.	Robert H. Gormley
Robert K. Geiger	James H. Foxgrover
Kenneth G. Haynes	Ernest E. Tissot, Jr.
Kenneth M. Carr	Gerald E. Synhorst
Paul A. Peck	Carl T. Hanson
Ralph M. Ghormley	William J. Cowhill
John T. Coughlin	Albert L. Kelln
Carlisle A. Trost	

IN THE ARMY

Army nominations beginning Kenneth W. Aichang, to be colonel, and ending Lawrence A. Trivieri, to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 20, 1973; and

Army nominations beginning John E. Simpson, to be lieutenant colonel, Regular Army, and colonel, Army of the United States, and ending Bruce Edward Zukauskas, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 27, 1973.

IN THE NAVY

Navy nominations beginning David O. Aldrich, to be ensign, and ending Marsden E. Blois, to be commander, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 27, 1973.

IN THE MARINE CORPS

Marine Corps nominations beginning Curtis J. Anderson, to be second lieutenant, and ending David W. Lutz, to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 20, 1973;

Marine Corps nominations beginning Ronald Achten, to be first lieutenant, and ending William E. Short, Jr., to be second lieutenant, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 20, 1973; and

Marine Corps nominations beginning Vivian B. Bulger, to be colonel, and ending William D. Young, Jr., to be lieutenant colonel, which nominations were received by the Senate and appeared in the CONGRESSIONAL RECORD on March 27, 1973.

EXTENSIONS OF REMARKS

WEST VIRGINIA'S NEW RIVER GORGE—AN AREA OF WONDROUS BEAUTY, SCENIC SPLENDOR, AND HISTORIC SIGNIFICANCE

HON. JENNINGS RANDOLPH

OF WEST VIRGINIA

IN THE SENATE OF THE UNITED STATES

Friday, April 6, 1973

Mr. RANDOLPH. Mr. President, tomorrow I travel to the "Grand Canyon of the East," the New River Gorge area in Fayette County, W. Va., to address the Fayette Plateau Chamber of Commerce's third annual banquet. This beautiful area is located in the heart of the magnificent Appalachians, about a 1-hour drive southeast of Charleston.

Fayette Plateau Chamber of Commerce, West Virginia Department of Natural Resources, and various organizations in southern West Virginia are actively working toward the development of the New River Gorge area as a national park.

New River Gorge is one of the oldest gorges in North America. This gorge, which has many locations that are over a thousand feet deep, is abundant in scenic and recreational advantages.

West Virginia prides itself in the distribution of modern parks in this region which emphasize the unspoiled outdoors. Rugged beauty is everywhere. At Babcock State Park flows a stream jumping with trout. The canyon tramway at Hawks Nest State Park sweeps down from the main lodge to the bottom of the 585-foot deep New River Gorge. Pipestem State Park's restaurant features a panoramic view of the gorge. The famed Horseshoe Bend of the New River Canyon can be seen from atop the Grandview Park's amphitheater, which, during the summer, hosts "Hatfields and McCoys" and "Honey in the Rock," both musical